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THE LETTERS AND THE LIFE

OF

FRANCIS BACON

INCLUDING ALL HIS

OCCASIONAL WORKS

NAMELY,

LETTERS SPEECHES TRACTS STATE PAPERS MEMORIALS DEVICES AND ALL AUTHENTIC WRITINGS NOT ALREADY PRINTED AMONG HIS PHILOSOPHICAL LITERARY OR PROFESSIONAL WORKS

NEWLY COLLECTED AND SET FORTH

IN CHRONOLOGICAL ORDER

WITH A

COMMENTARY BIOGRAPHICAL AND HISTORICAL

26700

BY

JAMES SPEDDING,

HONORARY FELLOW OF TRINITY COLLEGE, CAMBRIDGE.

VOL. VI.

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it consist? It consists merely and entirely of the answers returned by Bacon and his fellows to certain questions referred to them by the Lord Chancellor. The King recites these answers at full length, word for word, as given under all their names, and embodies them in a solemn Decree to be enrolled among the records of the Chancery. What proof of authenticity more formal can anybody want? That Bacon himself drew them up, and that they are as much his as if he had signed them alone, I have for my own part very little doubt. But at any rate he must be regarded as having fully adopted them, for he was the man of highest authority among the signers.

With regard to these particular cases I need say no more. But since they are adduced as examples of a general tendency with which I am credited,—a tendency which if justly imputed would materially affect the value of this collection,—I may be allowed to offer a few words of explanation: the rather because, though these examples are unluckily chosen, others more to the purpose might easily be produced. "Naturally prejudiced in favour of those whom he has known so long and so well as James and Bacon, *he has a tendency to assign to the latter much that is simply Baconian (or rather Elizabethan or Jacobean).*" Such is the imputation. How my prejudices in favour of *James* should dispose me to assign to *Bacon* what does not belong to him, I do not clearly understand. But the gist of the observation seems to be, that my prejudices in favour of Bacon himself—prejudices induced, according to the writer, by knowledge—dispose me to give him as much credit in every way as I can; and that, not being able to distinguish one man's style from another where all styles are so much alike, I am apt to see his hand in everything belonging to his age, and to suppose him the author of every unclaimed contemporary writing which I think would do him credit.

Now I admit that as a man who has made it his business to make as complete a collection as he could of Bacon's occasional writings, I am apter probably than other men, when the

authorship of a composition belonging to his age is in dispute, to remember him and *inquire* into his claim to it. But that I am apter to *assign* it to him without just ground, I cannot easily believe. In that, as in other things, the effect of familiarity is to increase, not diminish, the power of perceiving distinctions. Take the more familiar case of handwriting. Everybody has some skill in discriminating hands. There are some hands that he can swear to. He can be certain that this was, and that that was not, written by a particular man. And there is probably nobody who has attained that amount of skill without experiencing an extraordinary improvement in his powers of perception: things which once he could not see at all, seem now things which nobody can fail to see: hands which at first seemed so like that he could not tell which was which, have become with familiarity so different that he can hardly see any resemblance between them. Now the case of style is strictly analogous to that of handwriting. There was a time when I could not myself have recognized Bacon's distinctive hand in any of the three papers which I have been discussing: now I can read his signature in every sentence. There was a time when I could read page after page of compositions published under his name, without finding any strangeness in the style, in which I can now hardly read a paragraph without feeling that it could not possibly have come from his pen. Of course I am prepared to be set right in both respects by critics who are passing through the same course of education and are still in the earlier stages. But I hope that the present volume will at any rate prove one thing—that before I assign anything, or allow anything to be assigned, to Bacon, I must see something more in it than a style belonging to the age of Elizabeth or James I. Bacon's style (whatever ordinary people may say) belonged to himself.

Whether the general plan upon which this work is constructed be the best for its purpose, is a question which it would be useless to discuss; for even those who are most clearly of opinion that another would have been better will

agree that the best I can do now is to follow this out consistently. But I fear that I have not succeeded in making the purpose itself clearly understood. It seems to be thought by some readers that I have undertaken to show that Bacon never did anything which was not in accordance with the highest moral ideal, and that I am to be understood as applauding every action which I do not expressly condemn. And when I remind them that what I undertook to show was *what* he thought about things, not that what he thought was always wise and virtuous, I am supposed to renounce the right of discussing the morality or the policy of any business in which he was engaged. When I endeavour to show that an action which is denounced by historians as discreditable has been misreported or misunderstood and is in fact *not* discreditable, I am said to "falter in my resolution of showing only what Bacon thought about the occasions of his time," and to be "trying to shew that he was wise and virtuous";—as if an undertaking to show one thing implied a "resolution" to show nothing else; as if what a man thinks about a thing could be explained without explaining what the thing is; and as if you could explain what a thing is without considering whether it is wicked or innocent. It seems therefore that it will not be superfluous to state once more what it is that I have undertaken and am attempting to do.

Assuming, what I suppose will be generally allowed, that Bacon was a man whose observations and opinions upon the business of his own time are worth knowing, and that his evidence as a historical witness should be valuable if rightly interpreted,—I undertook to collect and bring together his writings of business. Knowing moreover that *selections*, however fairly made, are always exposed to suspicion of partiality, and that this is especially to be apprehended in cases where the popular prepossession is strong and the grounds of it when examined are weak,—I undertook to make the collection as complete as I could; that so every reader, having the whole case before him, might make his selections for himself. Lastly, considering that the true import of writings which are truly

writings of business, and presume in the persons addressed a knowledge of the matters to which they relate, cannot be understood *without* such knowledge,—I undertook to add what information I could give of the circumstances under which they were written. My professed object was to show, not how well and wisely, but *how*, he thought and acted in the various cases with which he had to deal. The question how well and wisely might come after, but the first question was how. The record of his thoughts and actions was to be found in the letters, papers, and books which he wrote, the documents which he signed, and reports of the words which he uttered. Now to make the collection of these *complete*, required little more than diligence, accompanied with some critical faculty for distinguishing the authentic from the unauthentic. But to make them *intelligible*, it was necessary first to understand and then to explain the cases. This was no easy task to accomplish, especially for one who has always had a more than ordinary difficulty in gathering knowledge and a more than ordinary facility in losing it again. But though the accomplishment was difficult, the direction was simple and easy. What I had to do was merely to supply the reader with all the information which I had myself found necessary to a true understanding of these cases. And this is what I have tried to do. It is true that in doing this I find myself obliged not unfrequently to discuss the moral bearing of historical transactions, and sometimes to plead for a reconsideration and reversal of the judgment which I find current. How could it be otherwise? I find Bacon engaged on one side or other of a question disputable in policy or justice: say a question of parliamentary taxation, of government prosecution, or of disputed prerogative. Of what use is it to know which side he took, unless I know what the question was? And yet when I ask *why* the government wanted an additional subsidy, and what they meant to do with it; or what the man who was to be prosecuted had done or was supposed to have done, and upon what evidence; or what point of prerogative was called in question, and what the practice had been in that point, I am obliged to seek

for the information where I can find it. Such questions seem to have been thought superfluous. To resist a motion for a subsidy seems to be set down as an act of patriotism; to support it, as an act of servility, without reference to the occasion. A prosecution by government seems to be assumed as a matter of course to be a persecution of a man certainly innocent and presumably patriotic. Any speech in support of a claim of privilege is treated as of course constitutional; any speech in support of the royal prerogative as of course unconstitutional. At least I find nothing in the judgments pronounced which either suggests the answer to such questions or recognizes their pertinence. Apply the same principle to modern cases of which we know something, and it will be seen at once how idle it is to judge of men's opinions and actions in this way. The leading men of opposite political parties do not in these days receive at each other's hands too much justice. But who ever thinks of charging a political leader with dishonesty merely for acting in accordance with his professed principles? To assume that Bacon must have been dishonest in defending the prerogative of the Crown is like assuming that Sir Robert Peel must have been dishonest in speaking against the Reform Bill. Both may have been in the wrong. But both thought they were in the right, and both had something to say. The difference is that we still remember so much about the varieties of opinion which were honestly entertained with respect to the Reform Bill, that we do not feel entitled to treat an anti-reformer as *ipso facto* a dishonest man; whereas we know so little of the varieties of opinion which were honestly entertained in the beginning of the 17th century concerning the extent of the prerogative, that we do feel entitled to regard any man who spoke in favour of it as a servile tool of monarchy. But the pertinency of questions of this kind is so obvious when attention is called to it, that finding them passed over by the best and best informed writers (and by none more than Lord Macaulay) as completely as if they had nothing to do with the case, I have thought it necessary to bring them out as distinctly as I could, and to keep the reader in mind of them by

reiteration. I wish I could think that I had done so oftener than there was need. Other cases of this kind occur in the present volume—the most famous and interesting being that of Sir Walter Ralegh: a case simple enough in itself, but so hidden from the sight of modern readers under a cloud of misrepresentations, misinterpretations, and misjudgments, that I have found a very large amount of commentary in proportion to the text absolutely necessary in order to make it intelligible.

But besides knowing the real nature of the transactions in which Bacon took part, it was necessary also for the right understanding of the case to know *what* part he took in them: a question which has been very carelessly dealt with; not only the spirit in which he was working, but the very side which he was advocating, having been in some instances mistaken. And here also, in order to explain the facts and remove the error, I have found discussion unavoidable. For I must not forget that in treating of Bacon I am not dealing with a subject of my own. All the ground has been already explored (or at least reported on as explored) by higher authorities. To settle disputed questions by simple assertion would save much ink and paper, and make the reader's task as well as the writer's much easier; but it is not permitted to me. When I differ from a received author, I may not say (as I might if I wrote in the plural and did not give my name) simply that he is wrong. I must give reasons and references; and if I mean the reader to *see* the passages referred to as well as to know where he may find them, I must print them in the page before his eyes. All this takes up space. And though the particular wants or wishes of any given reader might no doubt be satisfied at much less cost, I doubt whether it would be possible to supply any *one* with all he wants and nothing more, and not to disappoint many others, who would have preferred less of that and more of something else. Less of the raw material of biography and more of the manufactured article, is the demand of one. Another finds commentary an inconvenient interruption, and desires "to have only what is Bacon's before him." A third

tells me that when I dissent from a commonly received opinion, I ought to state the grounds of my dissent more fully and particularly. A fourth would have me unite the office of censor and moralist with that of editor, and explain to my readers what they are to approve and what to disapprove in each case. A fifth would have me dispense with discussions about politics, and the progress of science, and the financial condition of the kingdom, and the other affairs of which Bacon's writings treat, to make room for an imaginary description of his courtship and his wedding day, and whatever I can learn about his wife's family. I do not know that anyone has as yet proposed that I should add whatever I can learn about his *own* family—his father's children by his first marriage—which would be an extensive subject. But why not? His own father's family would seem to have an earlier claim upon me than his wife's father's and stepfather's; and their history could not be less to my purpose. But however that may be, it is plain that these various demands are incompatible with each other; and it being impossible for me to supply each reader with what he would like best, I must be content to supply all with what *I* like best, and what all who really care for the subject will find it convenient to possess; namely, a collection of Bacon's letters, speeches, and other occasional works, so set forth that (as I expressed it to myself when I entered on the task very long ago) "a modern reader, having no more than the average knowledge of a modern reader, may follow and understand them all without getting out of his easy chair." I presume in my reader a desire, not to be amused or delighted, but to be informed;—to be informed about the thoughts and wishes and endeavours and performances of Bacon—so far as they can be known—in his passage through a busy life; and to be informed with as little trouble as possible to himself. When the things he must know, in order to form his judgment, require space to set them forth clearly, I am not sparing of my paper and print. But the faculty of judging, when the materials are properly placed before him, I assume that he possesses; and I do not waste words in advising him what to

think and how to feel, except when I have reason to apprehend that considerations which I think important will be overlooked. If these exceptional cases are found to occur always or mostly when I have something to suggest in Bacon's behalf, seldom or never when the danger lies in the opposite direction, and there is reason to apprehend that a fault will be overlooked or condoned, it does not follow that they are partially selected. The case *against* Bacon has been set forth by the ablest advocates in the most determined spirit of advocacy. Scarcely a point which could be made a ground of censure has been missed, and the result of the discussion hitherto has been the creation of a general disposition to think the worst of him in every passage of his active life. A questionable action of his which had the least chance of being generally regarded more favourably than it deserved to be, I do not think I have yet met with. If I argue against the unfavourable opinion and not against the favourable, it is because I argue against the opinion which I think unjust; and in the very few cases in which the general opinion of Bacon's conduct as a man and a politician has been favourable, I have not thought it unjust.

In speaking of 'the reader,' I have hitherto been thinking of the average reader,—such a one as one's self. For those of a higher order, who already know more about all these things than I can tell them, and ask for nothing but Bacon's own writings in a correct text, I have made a special and (as I thought) a sufficient provision. Whatever I believe to be Bacon's own, and nothing *but* what I believe to be Bacon's own, is printed in a larger type than the rest, and entered in the table of contents in capitals. The arrangement was fully explained in the preface to the first volume, and I should not have thought it necessary to mention it again, were it not that in one of the ablest, gravest, most thoughtful, and most judicious notices of my book that I have seen, I find the writer complaining of the trouble he has found "in picking out what he wants amid the mass of comments which separate one paper from another:" his want being "to have only what is

Bacon's before him." Now nobody who can read finds any trouble in distinguishing small pica from long primer. If he wishes to see only what is Bacon's, he has only to refrain from reading anything which is not in small pica, and his trouble will consist in turning over the leaves. If that is too much, the capitals in the table of contents will show him at a glance all the pages which contain anything of Bacon's own, and he can go to them at once without so much as turning over the other leaves. More than this I cannot do for him without manifest injustice to his weaker brethren, for whom, as being presumably in the same condition in which I was myself when I began, I have a fellow feeling. It is true that the work is constructed on the supposition that both the comment and the text will be read; nor do I regard any one who skips either the one or the other as having read the book or qualified himself to criticize it; but certainly nothing can be *easier* than to read all that is Bacon's without looking at anything that is mine, or all that is mine without looking at anything that is Bacon's.

Another and a very different critic, who complains of "the absence of the man, Francis Bacon, from the scene," will, I hope, profit by the same information. If he will take the trouble to read some of the larger type, he will find that the man, Francis Bacon, is the principal person in every scene throughout the work, and that the business of the smaller print is only to prepare the reader for his entrance. Wherever he sees small pica he may be sure that Bacon himself is there, in a much more authentic shape than either he or I could present him in; that he is there in his own person, speaking in his own words.

There are some cases also in which, though he is not speaking, he may be regarded as really present,—cases in which writings have been popularly ascribed to him which were not his. Of this kind is the discussion of the famous letter to Sir Edward Coke upon his loss of office (pp. 121–131); which is the fulfilment of a promise made by me in a former volume to justify the opinion there expressed—namely that nobody could

believe it to have been written by Bacon "who knew what it was about." In connection with which case I have also taken occasion to draw attention to the remarkable discovery, made five or six years ago by the Rev. Alexander Grosart, of the real author of another work with which Bacon has been falsely credited—"The character of a believing Christian in Paradoxes and seeming contradictions."

As this is a preface of explanations, I will use it to acknowledge an error which I shall probably not have an opportunity of correcting. Having occasion to mention a Bill concerning Religion brought into the House of Commons in 1605–6 by Sir Edwin Sandys (Vol. III. p. 264), and having found it stated on good authority that his books had been publicly burned a few months before *by order of the High Commission*, I noticed the fact in passing, as significant of the relation in which he stood towards the authorities of the Church. I am indebted to a correspondent of "Notes and Queries" (19 April 1871, p. 359) for the knowledge of a circumstance which entirely alters the case, and makes the inference inapplicable. It appears that, if the Publisher's Preface to the *Europæ Speculum* may be trusted, what was burned was only "a spurious stolen copy, in part epitomised, in part amplified, and throughout most shamefully falsified and false printed from the author's original, insomuch that the same knight [Sir E. Sandys] was infinitely wronged thereby;" and that it was burned by his own desire. "As soone as it came to his knowledge that such a thing was printed and passed under his name, he caused it (though somewhat late, when it seemes two impressions were for the most part vented) to be prohibited by authority; and, as I have heard, as many as could be discovered to be deservedly burnt, with power also to punish the Printers." I have very little doubt that this is the true account of the matter, and therefore that the inference which I had drawn was a mistake. Luckily nothing of importance depended upon it, and it will be completely removed by leaving out all the words within the parenthesis. Carleton, to

whom Chamberlain (who was my authority) was writing, probably knew what books they were, and therefore the words would not convey to him the impression which I think they would naturally convey to one who heard of the thing for the first time.

Several of the letters in this volume, and two or three in the last, are described as being copied from the "Fortescue Papers." This is a very valuable collection of original documents accidentally discovered not long ago by the Hon. G. M. Fortescue,—the same from which a selection has lately been made for the Camden Society by Mr. S. R. Gardiner; in whose introduction all that is known of their history will be found. The collection appears to have been at one time in the hands of Robert Stephens, by whom all Bacon's letters that are contained in it were carefully copied and printed with great accuracy in his "Letters and Remains of the Lord Chancellor Bacon" (1734). By the kindness of Mr. Fortescue I have been permitted to compare these with the printed copies; and though the comparison has not enabled me to present them in a materially improved shape, it has satisfied me that a copy by Robert Stephens is almost as good as an original. A fact of more value. For there are many papers printed by him from originals which are not now to be found; and it is satisfactory to know that his skill and accuracy as an editor may be safely relied upon. I am also indebted to the same collection for a good deal of collateral information throwing new light upon transactions in which Bacon was concerned.

J. S.

80, *Westbourne Terrace,*
March, 1872.

An undated letter in Sir Toby Matthew's collection, which, having been placed by former editors among the letters of 1617, I had reserved for this volume, appears to me on closer consideration to have been written some years before; probably while Bacon was Solicitor-General. It would perhaps be possible to fix the year-date with some certainty by the

three concurring phenomena to which it relates, namely, 1st a cold winter; 2nd a cold summer following; 3rd all the planets continuing for six months together beyond the line, in the other hemisphere. But the date is in this case of little consequence; for the letter has no historical connection with anything else, nor are its contents of any value in themselves. To suppose that the unusual coldness of the season might be due to the absence of all the planets for an unusually long time, was not indeed so extravagant a thing in those days as it seems to be now, when it is known that the most sensitive instruments can detect no warmth from them. But I fancy that Bacon himself was not long in discovering that the cause was inadequate or the coincidence accidental. For I am not aware that he ever repeated the suggestion; and yet if he continued to believe that there was any real connection between the position of the planets and the temperature of the seasons, he must have had frequent occasions to repeat it. He must have accounted it "a noble instance." He could not have omitted it from the enquiry concerning the Form of Heat, and would probably have given it a place in the *Sylva Sylvarum*, as "an experiment solitary touching the cause of cold weather." At what particular time the thought crossed his mind, is a question of small interest; but from the allusion to the Italian astronomers, I should conjecture that it was while Matthew was in Italy. If I had observed this in time, I should have introduced it in the fourth volume, to which I now think it properly belongs. But the end of this preface will probably do quite as well.

The heading is Matthew's. Bacon himself would probably have described it as "concerning the cause of the late cold weather."

Sir Tobie Matthew's Collection of Letters, p. 25.

SIR FRANCIS BACON TO A FRIEND, IN REFLECTION UPON SOME ASTROLOGERS IN ITALY.

Sir,

I write to you chiefly now, to the end that by the continuance of my acquaintance with you by letters, you may per-

ceive how much I desire and how much I do not despair of the recontinuance of our acquaintance by conversation. In the mean time I wish you would desire the astronomers of Italy to amuse us less than they do with their fabulous and foolish traditions; and come nearer to the experiments of sense; and tell us, that when all the planets, except the moon, are beyond the line in the other hemisphere for six months together, we must needs have a cold winter; as we saw it was the last year. For understanding that this was general over all these parts of the world; and finding that it was cold weather with all winds, and namely west-wind, I imagined there was some higher cause of this effect; though yet I confess I thought not that ever I should have found that cause so palpable an one as it proved. Which yet when I came quickly afterwards to observe, I found also very clearly that the summer must needs be cold too; though yet it were generally thought that the year would make a shift to pay itself, and that we should be sure to have heats for our cold. You see that though I be full of business, yet I can be glad rather to lay it all aside than to say nothing to you. But I long much more to be speaking often with you, and I hope I shall not long want my wish.

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ERRATA.

VOL. III.

Page	line		
264	1–4	omit all the words within the parenthesis.	

VOL. V.

21	2 (up)	after "manuscript," insert "which is all fairly written in his own hand."	
		for	read
69	14 (up)	*grossantur*	*grassantur.*
193	2	charge	change.
323	7	Hellwysse	Weston.
376	7 (up)	Parliment	Parliament.
396		add to note at bottom "See a fuller copy of these reports printed in Peck's *Desiderata Curiosa*, Vol. I, p. 213.	

VOL. VI.

78	3 (up)	professed	preferred.
97		Notes, l. 2, before "So," insert [2].	
144	4 (up)	son-in-law	daughter-in-law.
397		Notes, last line, before "Compare," insert [2].	
424		Notes, l. 2, Edward	Robert.

LETTERS AND LIFE OF FRANCIS BACON.

BOOK VI.

CHAPTER I.

A.D. 1616. JULY–AUGUST. ÆTAT. 56.

1.

"STAPLE (*Stapulum*)," says Cowell, in his 'Interpreter,' "signifieth this or that town or city, whither the merchants of England by common order or commandment did carry their wools, wool fells, cloaths, lead and tin, and such like commodities of our land, for the utterance of them by the great." These towns were provided with tribunals for the regulation of the trade; and the privilege, which was conferred at the pleasure of the crown by letters patent, had been "in times past," says Coke, "so renowned and beneficial, as it enriched every place where it was holden, and it was commonly said that riches followed the Staple."[1] Ireland had at this time only four such towns, all in the south; and upon complaint made that "great quantities of wools were exported out of that realm into foreign parts, to the exceeding prejudice of the clothing of this kingdom," directions were given by the Council to Chichester, St. John, and others "to consider as well of such ports in the realm of Ireland from whence only wools should be shipped into England, as also of such ports in England to which only the wools of Ireland should be brought." This was accordingly done; and certain places having been recommended by them for erection into Staple Towns, "forasmuch as the business was of great consequence and had relation to matter of law," it was thought necessary before proceeding further to consult the Attorney General. The report was

[1] Instit.,—part iii. c. 46.

accordingly referred to Bacon on the 13th of July 1616, who on the 22nd returned the following certificate.

MR. ATTORNEY'S CERTIFICATE TOUCHING THE WOOLS OF IRELAND.[1]

According to your Lps reference of the 13th of this instant July, I have considered of the certificate of the Lord Chichester, the Lord Deputy of Ireland, Alderman Cockaine, and George Lowe, concerning restraint of exportation of wools, woollen yarn, etc. out of Ireland into foreign parts. And I do approve the said certificate with the explanations, alterations, and provisions following.

1. First, that the five Towns named in the certificate as staple towns in England be not understood to receive any new charters or privileges of staple, but only be understood to be towns correspondent for the receiving of wools, etc. out of the staple towns of Ireland, without any other novelty.

2. Secondly, that whereas of the eight towns of Ireland mentioned in the certificate, four of them are ancient staple towns, viz.: *Dublin, Waterford, Corke, Drogheda,* and one is made a staple town by a late charter from his Majesty, viz.: *Limbricke,* and three are not yet erected to be staple towns, viz.: *Gallway, Knockfergus,* and *London Derry;* it is fit that the three towns which have yet no charter of staples, have charters to erect them into staple towns only for these commodities. And it is convenient also that the four other ancient staple towns, and *Limbricke,* either by accepting of new charters or otherwise by order of the Council of State there, be reduced to be conform unto the orders which shall now be prescribed for the staple, to the end there may be one uniform course held in all the eight towns.

3. Thirdly, that the orders and privileges of all the said charters be considered of and framed here in England, and also the charters thereupon to pass here.

4. Fourthly, that whereas part of the commodities mentioned in the said certificate are expressly forbidden by the sta-

[1] S. P. Ireland, vol. 234. no. 19. Original. The heading is from the docket.

tutes of Ireland to be exported, viz.: wools and woolfells; and part of them are doubtful whether they be comprehended in the statutes or no, viz.: morlins, sherlings,[1] lamb-skins, and woollen yarn; 'twere very fit there were a general proclamation for the restraint of the exportation of all those particulars, as well for the corroboration of the law where it is clear as for the supply of the same where it is doubtful; and so the orders of the staple to work equally upon all.

5. Fifthly, whereas it is mentioned in the certificate that if the four ancient towns shall refuse the reception of any of his Ma^ty's subjects into their society, then my L. Deputy to transfer the staple of wool, etc. to such other four towns as his Lordship shall think fit; This is to be understood that in case of such refusal the town refusing shall be excluded of the benefit of the *non obstante* or privilege to export; for otherwise that that they have already by charter cannot be transferred. And the like I would wish to be done if they will not conform themselves to the King's order for the staple of wools.

6. Lastly, all the staple towns must have in their charters a *non obstante* of the statutes made against the exportation of wools, etc. as well such as make it felony as otherwise. And also the forfeiture which by statute is given to the towns must be released.

There would be also good care taken that the fine of the admittance into the staplers' company be not great, and that none come in but merchants.

FR. BACON.

July 22d. 1616.

Of the proceedings taken in pursuance of this certificate we shall hear more a little further on.

2.

The removal of Somerset left the course clear for the gracing of Villiers; and that wonderful upward career, begun so early, continued so long, and earned with so little effort or sacrifice on his own part—for it seems that he had only to be himself in order to be

[1] "*Shorling* and *morling* seem to be words to distinguish fells of sheep; as if *shorling* should signify the fells after the fleeces be shorn off the sheep's back, and *molring* the fells flean off after they be killed or die alone."—Cowell's Interpreter.

entirely gracious in the eyes of a king whose affection and bounty had no limit—commenced at once. His first honours having to pass through the hands of the Attorney General, the history of them comes naturally before us in the following letters, which enable us to understand the relations between him and Bacon almost from the beginning of their acquaintance, and require little or no comment. He had been made Master of the Horse in January, and Knight of the Garter in April. In July he had received a grant of the manors of Whaddon and Nash, and the park and chase of Whaddon, in Buckinghamshire. Sir John Roper's patent for the enrolment of pleas in the Court of King's Bench (the reversion of which had been held by Somerset, see Vol. V. p. 227) was to be his as soon as it came into the King's hands. And he was now to be raised to the peerage.

TO THE KING'S MOST EXCELLENT MA^TY[1]

It may please your most excellent Majesty,

According to your commandment I send inclosed the preface to the Patent of Creation of Sir George Villiers. I have not used any glaring terms, but drawn it according to your Majesty's instructions, and the note which thereupon I framed, and your Majesty allowed, with some additions, which I have inserted. But I hope your Majesty will be pleased to correct and parfite it. Your Majesty will be also pleased to remember, that if the creation shall be at Roughford, your pleasure and this draught be speedily returned; for it will ask a sending of the bill for your Majesty's signature, and a sending back of the same to pass the seals, and a sending thereupon of the patent itself: so it must twice be sent up and down before the day. God evermore preserve your Majesty.

Your Majesty's most devoted
and most bounden servant,

28 July, 1616. FR. BACON.

A LETTER FROM THE KING'S ATTORNEY GENERAL TO THE MASTER OF THE HORSE UPON THE SENDING OF HIS BILL FOR VISCOUNT.[2] AUG. 5. 1616.

Sir,

I send you the bill for his Majesty's signature, reformed

[1] Fortescue Papers. Original: own hand.
[2] Gibson Papers, vol. viii. f. 40. Fair copy in the hand of Meautys.

according to his Majesty's amendments, both in the two places (which I assure you were both altered with great judgment) and in the third place which his Majesty termed a question only. But he is an idle body that thinks his Majesty asketh an idle question, and therefore his Majesty's questions are to be answered by taking away the cause of the question and not by replying.

For the name, his Majesty's will is law in those things; and to speak truth, it is a well-sounding and noble name, both here and abroad; and being your proper name, I will take it for a good sign that you shall give honour to your dignity, and not your dignity to you. Therefore I have made it Viscount Villiers; and for your barony, I will keep it for an earldom. For though the other had been more orderly, yet that is as usual, and both alike good in law.

For Roper's place, I would have it by all means dispatched, and therefore I marvel it lingereth. It were no good manners to take the business out of my Lord Treasurer's hands, and therefore I purpose to write to his Lordship, if I hear not from him first by Mr. Deckomb. But if I hear of any delay, you will give me leave (especially since the King named me) to deal with Sir John Roper myself; for neither I nor my Lord Treasurer can deserve any great thanks of you in this business; considering the King hath spoken to Sir John Roper, and he hath promised; and besides the thing itself is so reasonable, as it ought to be as soon done as said. I am now gotten into the country to my house, where I have some little liberty to think of that I would think of, and not of that which other men hourly break my head withal, as it was at London. Upon this you may conclude that most of my thoughts are of his Majesty; and then you cannot be far off. God ever keep you and prosper you. I rest always

Your true and most devoted servant,

Fr. Bacon.

5 of Aug., one of our happiest days, 1616.

The fifth of August was the anniversary of the Gowrie conspiracy, when James had a narrow escape from assassination.

A LETTER TO SIR GEORGE VILLIERS, UPON THE SENDING HIS PATENT FOR VISCOUNT VILLIERS TO BE SIGNED. AUG. 12 1616.[1]

Sir,

I have sent you now your patent of creation of Lord Blechly of Blechly, and of Viscount Villiers. Blechly is your own and I like the sound of the name better than Whaddon; but the name will be hid, for you will be called Viscount Villiers. I have put them both in a patent, after the manner of the patents of Earls where Baronies are joined; but the chief reason was, because I would avoid double prefaces which had not been fit; nevertheless the ceremony of robing and otherwise must be double.

And now, because I am in the country, I will send you some of my country fruits; which with me are good meditations; which when I am in the city are choked with business.

After that the King shall have watered your new dignities with his bounty of the lands which he intends you, and that some other things concerning your means which are now likewise in intention shall be settled upon you; I do not see but you may think your private fortunes established; and therefore it is now time that you should refer your actions chiefly to the good of your sovereign and your country. It is the life of an ox or beast always to eat, and never to exercise; but men are born (and specially christian men), not to cram in their fortunes, but to exercise their virtues; and yet the other hath been the unworthy, and (thanks be to God) sometimes the unlucky humour of great persons in our times. Neither will your further fortune be the further off: for assure yourself that fortune is of a woman's nature, that will sooner follow you by slighting than by too much wooing. And in this dedication of yourself to the public, I recommend unto you principally that which I think was never done since I was born; and which not done hath bred almost a wilderness and solitude in the King's service; which is, that you countenance, and encourage, and advance able men and virtuous men and meriting men in all kinds, degrees, and professions. For in the time of the Cecils,

[1] Gibson Papers, vol. viii. f. 41. Fair copy in the hand of Meautys.

the father and the son,[1] able men were by design and of purpose suppressed; and though of late choice goeth better both in church and commonwealth, yet money, and turn-serving, and cunning canvasses, and importunity prevail too much. And in places of moment, rather make able and honest men yours, than advance those that are otherwise because they are yours. As for cunning and corrupt men, you must (I know) sometimes use them; but keep them at a distance; and let it appear that you make use of them, rather than that they lead you. Above all, depend wholly (next to God) upon the King; and be ruled (as hitherto you have been) by his instructions; for that is best for yourself. For the King's care and thoughts concerning you are according to the thoughts of a great king; whereas your thoughts concerning yourself are and ought to be according to the thoughts of a modest man. But let me not weary you. The sum is, that you think goodness the best part of greatness; and that you remember whence your rising comes, and make return accordingly.

God ever keep you.

Gorhambury, Aug. 12, 1616.

To the King, touching Sir George Villiers' patent for Baron of Blechly and Viscount Villiers.[2]

It may please your most excellent Majesty,

I have sent Sir G. Villiers' patent drawn again, containing also a barony, the name Blechly, which is his own, and to my thinking soundeth better than Whaddon. I have included both in one patent, to avoid a double preface, and as hath been used in the patents of Earls of like nature. Nevertheless the ceremony of robing and otherwise is to be double, as is also used in the like case of Earls.

It resteth that I express unto your Majesty my great joy, in your honouring and advancing of this gentleman; whom to describe not with colours but with true lines, your Majesty cer-

[1] So in MS. Rawley in the *Resuscitatio* prints it "For in the time of some late great Counselloure, when they bare the sway, able men were," &c. But I have no doubt that this was an alteration made by Rawley himself out of tenderness for the feelings of the Cecils; just as he uses a similar discretion in suppressing the name of Somerset in Bacon's letter to Villiers, Vol. V. p. 228.

[2] Gibson Papers, vol. viii. f. 42. Copy in Bacon's hand.

tainly hath found out and chosen a safe nature, a capable mind, an honest will, generous and noble affections, and a courage well lodged; and one that I know loveth your Majesty unfeignedly, and admireth you as much as is in a man to admire his sovereign upon earth. Only your Majesty's school (wherein he hath already so well profited, as in this entrance upon the stage, being the time of greatest danger, he hath not committed any manifest error), will add perfection, to your Majesty's comfort and the great contentment of your people. God ever preserve and prosper your Majesty. I rest in all humbleness,

Your Majesty's most bounden
and most devoted subject and servant,
FR. BACON.

Gorhambury,
12 of Aug. 1616.

A LETTER TO SIR GEORGE VILLIERS, UPON THE SENDING HIS PATENT FOR HIS CREATION OF VISCOUNT SEALED. AUG. 20 1616.[1]

Sir,

I took much contentment in that I perceive by your letter that you took in so good part the freedom of my advice, and that yourself in your own nature consented therewith. Certainly, no service is comparable to good counsel; and the reason is, because no man can do so much for another as a man may do for himself. Now good counsel helpeth a man to help himself. But you have so happy a master as supplieth all. My service and good will shall not be wanting.

It was graciously and kindly done also of his Majesty towards me, to tell you that you were beholding to me; but it must be then for thinking of you as I do; for otherwise, for speaking as I think, it is but the part of an honest man.

I send you your patent, whereof God give you joy; and I send you here enclosed a little note of remembrance for that part of the ceremony which concerneth the patent. For as for other ceremonies, I leave to others.

My Lord Chancellor dispatched your patent presently upon the receipt, and writ to me how glad he was of it, and how well he wished you. If you write to him a few words of thanks,

[1] Gibson Papers, vol. viii. f. 44. Fair copy in the hand of Meautys.

I think you shall do well. God keep you and prosper you. I ever rest

Your true and most devoted servant,

FR. BACON.

Gorhambury, 20 Aug. 1616.

3.

The creation took place at Woodstock on the 27th of August, and Villiers was now finally established in the office of "Favourite." "This is now the man," says Sherburn writing to Carleton on the 20th, "by whom all things do and must pass; and he far exceeds the former in favour and affection."[1]

That he was not at this time insensible of the responsibility of the position, or indifferent to the duties which it entailed, or over-confident of his own capacity to discharge them, appears from the fact that he not only took in good part the counsels which Bacon offered him from time to time, but applied to him for more. For it must have been about this time that he desired his advice in detail as to the manner in which he should frame himself for the performance of his new duties. Some good authorities, including Mr. Craik and Mr. Gardiner, would put it seven or eight months earlier; but the letter which Bacon wrote in answer (if the *form* of it in its earliest shape has suffered no alteration in the editing) cannot have been written before Villiers was a Peer, and to suppose it later would involve other difficulties.

I say "in its earliest shape," because we have two versions of this letter much differing from one another; and differing among other things in that very particular which bears upon the question of date, —namely the style and title by which Villiers is addressed. And here a new difficulty meets us. For of these two versions, that which seems to be the *later* is that in which the new title does *not* appear. I shall endeavour presently to show how this may have come to pass; but I must first put the reader in a position to judge of the relation in which the two versions stand to each other,—a thing which he cannot do now without reference to a very scarce pamphlet. For it must be observed that we know nothing about either of these versions except what we learn from themselves. Among Bacon's own papers I find no trace of any such composition —no fragment, or rudiment, or note, or allusion; insomuch that if the thing itself had not been preserved, we should have had no reason to suppose that any such correspondence had passed. Dr.

[1] S. P. Dom. James I., vol. lxxxviii., no. 57.

Rawley either never heard of this letter of advice (which when he published the *Resuscitatio*, in 1657, might easily be) or did not believe it to be of Bacon's composition. Dr. Tenison in his "account of all the Lord Bacon's works" (*Baconiana*, 1679) takes no notice of it; though it had then twice appeared in print with Bacon's name:—sixteen years before in the second edition of the *Cabala;* nine years before in *Lloyd's State Worthies:* and it is hard to believe that he had not seen it in one or other of them. Nor does Stephens's catalogue, which I take to be a copy of Tenison's list of the papers received by him in 1782 from the executor of the executor of Sir Thomas Meautys,[1] contain any title descriptive of it. Its first appearance in any collection of Bacon's works was in 1730, when Blackbourne included it in his edition of the *Opera omnia*. It has held its place since: and its right to appear there (though I agree with Professor Craik that the evidence of authorship is chiefly internal) may be regarded, I think, as indisputable. But the form in which it is set out, and which all succeeding editors have faithfully reproduced, is in my opinion injudicious and unsatisfactory. The editor meant, no doubt, to preserve all that was material in both versions; but he forgot to give us any means of ascertaining how much of that which he took for his text was contained also in the other: and without knowing that, how can we know what the other consisted of? His mode of proceeding he has himself described. He had before him three different copies: one in a separate quarto volume, published in 1661: another in the second edition of the *Cabala*, 1663; a third in *Lloyd's State Worthies*, 1670. Of these three, the copy in the *Cabala* being the fullest and most complete, he took it for his text, collated it with the other copies, and "in settling and correcting the copy as he went along, *wherever he observed a material variation of the sense or substance in the quarto of* 1661, he included it in crotchets thus [ ] and inserted it."[2] If he had remembered that the clear *omission* of a passage is "a material variation of sense and substance," no less than a different reading of it—and had distinguished all passages so omitted in the quarto—he would have supplied us substantially with the information we want. But this he seems to have forgotten. The variations which he notices are only such as occur either in passages common to both copies, or in passages peculiar to the quarto. Where a sentence is found in both *without* material variation, nothing is said about it. Where a sentence which is found in the *Cabala* is omitted altogether

[1] See above, Vol. II. c. i. § 2.

[2] "An account of the present edition"—(*i.e.* Blackbourne's edition, 1730). Vol. i. p. 177.

in the quarto, nothing is said about that. How then are we to guess what the quarto is really like? how judge whether it is to be taken for the earlier or the later copy—the rough sketch or the improved edition? To judge of this we must refer to the original; of which the only copy I have met with is in the library of Trinity College, Cambridge.

An examination of this has satisfied me that it represents the composition in an *earlier* form than the copy in the Cabala. But the differences between the two are so many that a really complete collation would cause more trouble to all parties than a reprint in full of both. This, therefore, I have given. The reader will then be able to judge for himself of the points in question; and I think he will conclude with me that the letter as printed in the quarto of 1661 is the letter as it was first drawn up; that it is not a fragment or a rudiment, but a thing finished and complete in itself; and that the copy in the Cabala is the same letter corrected, enlarged, and worked out in greater detail.

At what time or times this improved version was produced, and with what object—whether to provide a handsome occasion for reminding Villiers of the counsel formerly given, or to furnish a specimen of a treatise *de negotiis gerendis*, or simply to satisfy the natural desire a man sometimes feels to complete an unfinished or amend an imperfect work of his own hands—all this must be left to conjecture. Any of these motives may have led Bacon to take it up at any time, and the existence of such an enlarged and amended edition would have called for no further explanation, were it not for the singularity which I have already mentioned—the title which is given in it to the person addressed.

But if the copy in the quarto (in which that person is addressed as "My Lord") was the earlier, how is it that in the enlarged copy made afterwards he is addressed only as "Sir"? It cannot be denied that this is a serious difficulty—a difficulty which would have been thought sufficient to determine the question of priority the other way, if *all* difficulties could have been got rid of by that supposition. But that is by no means the case; and I find it harder to believe that the quarto version was posterior in date, than to devise a theory which, without involving anything improbable in itself would account for the appearance of the title in the earlier copy and its disappearance from the later.

I must first observe that there is something singular about this title even as it appears in the quarto—something which demands a conjectural explanation. "My Lord" and "your Lordship" occur, it will be seen, only in the first two paragraphs; throughout the

rest of the letter the same person is addressed as "Sir." Now I think it would be hard to find another case in which a nobleman, not of royal blood, was intentionally called "Sir." That it happened through inadvertence, though not impossible, is in a case like this very improbable; and the thing admits of an easier explanation. We know enough of Bacon's habits of composition to justify us in assuming that in writing a letter of this importance to a person in Villiers's position he would make first a rough draft and then a fair copy in his own hand. It may easily have happened that Villiers was made a Viscount after it was written fair and before it was dispatched. In that case he might think it good manners to take off the first leaf and rewrite it, in order to introduce the new title; but might not be at leisure or think it worth while to write out again the whole of so long a letter. If so, the rough draft, addressed throughout to *Sir George* Villiers, would remain in his cabinet, probably without any note of the alteration; and if at some later time, upon any of the motives I have suggested or any that others may suggest, he took it in hand to correct, amplify, and make more complete, he may easily have forgotten the accident of the change in Villiers's style at that particular juncture, and worked it out according to its original form and intention—that of a letter of advice to a young man newly adopted as the King's declared Favourite.

I have thought the paper interesting and important enough in itself to justify this little speculation as to its history. But the point is not otherwise of any consequence. Nothing material depends upon the question whether it was written early or late in the year 1616, or how it came to be rewritten. Upon any view of it—if it was written by Bacon—it contains his deliberate opinion as to the duty of a "Favourite" in those days—that is of a private and confidential councillor chosen by the King out of personal affection. The office itself was one which he did not approve of. It was of the nature of what was then called a "Cabinet Council," (a very different thing from that which now goes by that name); a remedy proposed in Italy and practised in France for certain inconveniences incident to Councils of State; but a remedy, he says in his Essay of Counsel, "worse than the disease: which hath turned Metis the wife to Metis the mistress; that is Councils of State, to which Princes are married, to Councils of gracious persons recommended chiefly by flattery and affection."[1] I suppose the councils to which he alludes were bodies exercising the authority of Councils of State;

[1] This was written before 1612. See *Literary and Professional Works*, vol. i. pp. 424, 555.

which was not the case with James's favourites, for they had no authority more than belonged to the offices to which they might be promoted. But the censure of the one was in effect a censure of the other, and before the publication of the essay in which it was expressed (which was shortly after the death of Salisbury) the application had become so obvious as to suggest the suppression of the last clause. But as Bacon could not prevent the King from being governed by a Favourite, his next best service was to inspire the Favourite with an honest ambition to govern him wisely and well. And the opportunity being offered to him, this is the way in which he endeavoured to take advantage of it.

In this case, as in others of the kind, I do not hold it to be any part of my business either to applaud or to defend or to correct the opinions expressed; but only to represent them faithfully, and to explain them where explanation is needed and I have any to offer. My contribution here will consist chiefly of the reprint of the first copy, which to almost everybody will be as new as if it were printed for the first time; and a rather better edition of the second by help of a manuscript in the Lansdowne collection, which has not been collated before.

A Letter of Advice, written by Sir Francis Bacon to the Duke of Buckingham, when he became Favourite to King James.

My noble Lord,

Being over-ruled by your Lordship's command, first by word, and since by your letters, I have chosen rather to show my obedience than to dispute the danger of discovering my weakness in adventuring to give advice in a subject too high for me. But I know I commit it to the hands of a noble friend, and to any others, for the nature of the discourse, it is not communicable.

My Lord, when the blessing of God (to whom in the first place, I know, you ascribe your preferment) and the King's favour (purchased by your noble parts, promising as much as can be expected from a Gentleman) had brought you to this high pitch of honour, to be in the eye, and ear, and even in the bosom of your gracious Master, and you had found by experience, the trouble of all men's confluence, and for all matters, to yourself as a mediator between them and their Sovereign, you were pleased to lay this command upon me:

First in general, to give you my poor advice for your carriage in so eminent a place, and of so much danger, if not wisely discharged. Next in particular, by what means to give dispatches to suitors of all sorts, for the King's best service, the suitors' satisfaction, and your own ease. I humbly return unto you mine opinion in both these, such as an Hermit, rather than a Courtier can render.

You are now the King's Favourite, so voted, and so esteemed by all.

In the first place, then, give me leave to tell you what this signifies; and next, what is the duty that lies upon you towards the King. That being done in a few words, I shall then come to the particulars which you must insist upon to facilitate your dispatches. It is no new thing for Kings and Princes to have their privadoes, their favourites, their friends. They have done it sometimes out of their affection to the person of the man (for Kings have their affections as well as private men), sometimes in contemplation of their great abilities (and that's a happy choice), and sometimes for their own ends, to make them whom they so stile, and are contented should be so stiled, to be interposed between the Prince and the People. Take it in either or any of these significations, let it be a caution unto you. If the King have made choice of you out of his affection, or out of the opinion[1] of your worth, to communicate his bosom thoughts with you, or perhaps to debate them, and so ripen his own judgment; you are bound in gratitude to return so much as possibly you can to advance your Master's service and honour. But were it (as I am confident it is not) to interpose you between himself and the envy of his people in general, or of some discontented party in particular, then you are bound for your own sake to watch over your actions.

Remember then what your true condition is. The King himself is above the reach of his people, but cannot be above their censures; and you are his shadow, if either he commit an error and is loath to avow it, but excuses it upon his Ministers, of which you are the first in the eye: or you commit the fault, or have willingly permitted it, and must suffer for it; so perhaps you may be offered as a sacrifice to appease the multitude. But admit you were in no such danger, as I hope you are not, and

[1] So in the original. I think it should be "his opinion."

that you are answerable only to God and the King for your actions, yet remember well the great trust you have undertaken. You are as a continual sentinel, always to stand upon your watch, to give him true intelligence. If you flatter him, you betray him. If you conceal the truth of those things from him, which concern his justice or his honour (although not the safety of his person), you are as dangerous a traitor to his State, as he that riseth in arms against him. A false friend is more dangerous than an open enemy. Kings are stiled Gods upon Earth, not absolute, but *Dixi dii estis*, and the next words are, *sed moriemini sicut*[1] *homines;* they shall die like men, and then their thoughts perish; they cannot possibly see all things with their own eyes, nor hear all things with their own ears; they must commit many great trusts to their ministers. Kings must be answerable to God Almighty (to whom they are but vassals) for their actions, and for their negligent omissions. But the Ministers to Kings, whose eyes, ears, and hands they are, must be answerable to God and man, for the breach of their duties, in violation of their trusts, whereby they betray them.[2]

For the general, I say no more, but apply myself to the particular wherein you desire satisfaction; in which my answer shall be plain, and as clear as I can. And sir, know this I beseech you, that which I now write and recommend immediately to you, concerns also the King, and much more than you; and because he cannot intend all things, and ordinary persons cannot have access unto him, or if they had, durst not speak with that freedom, you are bound to supply it, and to be his monitor, not in a saucy malepart[3] way, which may not take with him, but at seasonable times, which you may, nay which you must, watch for.

It is true that the whole Kingdom hath cast their eye upon you, as the new rising Star, and no man thinks his business can prosper at Court, unless he hath you for his good Angel, or at least that you be not a *Malus Genius* against him. This you cannot now avoid unless you will adventure a precipice, to fall down faster than you rose. Opinion is a master wheel in these cases. That courtier who obtained a boon of the Emperour, that he might every morning at his coming into his presence

[1] *Sunt* in the original.
[2] In the original there is not a fresh paragraph here.
[3] So in original.

humbly whisper him in the ear and say nothing, asked no unprofitable suit for himself: but such a fancy raised only by an opinion cannot be long lived, unless the man have solid worth to uphold it: otherwise when once discovered it vanisheth suddenly. But when a favourite in court shall be raised upon the foundation of merits, and together with the care of doing good service to the King, shall give good dispatches to the suitors, then can he not choose but prosper. This[1] Sir I find is your noble ambition, and it is worthy the honour you possess: And that this may succeed according to your desire, I shall humbly propound unto you these rules to be observed, and I beseech you, if you approve of them, constantly to pursue them.

1. If the suit be either of importance for value, or of difficulty, direct that it be set down in writing; then appoint it to be left with you in writing; and appoint the suitor to attend for his answer so many days after as may be competent; of which time let a note be taken by your Secretary. So shall you be eased of the suitor in the mean time, and he rest quiet till the day appointed in expectation of his despatch.

2. To prepare yourself for these answers in their times, set apart an hour in a day, or two, to sort your Petitions; which will be easily done if your Secretary draw lines under the matter, which always lies in a narrow room.

3. Think not your self nor any one or two private friends or servants to be able to comprehend the true reason of all things; there is no such omnisciency to be look'd for. But dividing the Petitions as they come to your hands into several sorts according to the nature of the matter, first, cause two or three several copies to be made of the Petition, or the substance of it.

4. Then make choice of several men well versed in these[2] several professions or qualities, whom you think you may trust, and to them severally send copies, desiring them within twenty days after to return unto you in writing their opinions of the Petition, and their reasons for it, or against it; and let not one of them know what the other doth.

5. Then set a part an hour or two twice in a week, to peruse these Petitions again, and the answers of the referees; out of which compared together, as out of *Responsa prudentium*, you may collect such a judgment, as within a short time you shall

[1] The original has "thus." [2] So in original. I think it should be *their*.

be able to judge of the fidelities and abilities of those you trust, and return answers to petitions of all natures as an oracle. And be assured of this, that next to the granting of the request, a reasonable and a fair denial (if the matter will not bear it to be otherwise) is most acceptable.

That you may dispose of all these sorts of business in a fit and dexterous way, I conceive that all matters of difficulty which will be presented to you will be one of these eight sorts, either concerning,

1. Religion and Church-men, or Church-matters.
2. The Laws and the Professors thereof.
3. The Council Board, and matters of State:
4. Negotiation with foreign Princes or States.
5. War by Sea or Land.
6. Foreign Plantations and Colonies.
7. Matter of Trade.
8. The Court or Curialitie.

What cannot be ranked under one of these heads will not be worthy of your thoughts, and you will find enough of these to take up your time.

But that you may not study your ease only, but chiefly your honour, and the honour of your Master: I beseech you to take these materials, thus divided into these eight sections, into your more serious thoughts, and propound to yourself some rules as land-marks to guide your judgment in the examination of every one of them, as [it] shall come to your hand; wherein I shall adventure to make an essay; please you to perfect it.

I. For Religion, if any thing be offered to you touching it or touching the Church or Church men, or Church government, rely not only upon yourself, but take the opinion of some grave and eminent Divines; especially such as are sad and discreet men, and exemplary for their lives.

2. If any question be moved concerning the doctrine of the Church of England expressed in the 39 Articles, give not the least ear to the movers thereof. That is so soundly and so orthodoxally settled as cannot be questioned without extreme danger to the honour and stability of our Religion, which hath been sealed with the blood of so many Martyrs and Confessors, as are famous through the Christian World. The enemies and underminers thereof are the Romish Catholiques (so stiling them-

selves) on the one hand, whose tenents are inconsistent with the truth of Religion, professed and protested by the church of England (whence we are called Protestants) and the Anabaptists and Separatists, and Sectaries on the other hand, whose tenents are full of schism, and inconsistent with monarchy: For the regulating of either, there needs no other coercion than the due execution of the laws already established by Parliament.

3. If any attempt be made to alter the discipline of our Church, although it be not an essential part of our Religion, yet it is so necessary not to be rashly altered, as the very substance of Religion will be interessed in it: Therefore I desire you before any attempt be made of an innovation by your means, or by any intercession to your Master, that you will first read over, and his Majesty call to mind, that wise and weighty Proclamation, which himself penned, and caused to be published in the first year of his reign, and is prefixed in print before the Book of Common Prayer (of that impression); in which you will find so prudent, so weighty reasons, not to hearken to innovations, as will fully satisfy you that it is dangerous to give the least ear to such innovators, but it is desperate to be misled by them: But to settle your judgment, mark but the admonition of the wisest of men, King *Solomon, Prov.* 27. *v.* 21. *My son, fear God and the King, and meddle not with those who are given to change.*

II. Next, touching the Laws (wherein I mean the Common Laws of England) I shall be the more sparing to speak, because it is my profession; but thus much I shall say with confidence, that if they be rightly administered, they are the best, the equallest in the world between the Prince and People; by which the King hath the justest Prerogative, and the People the best liberty; and if at any time there be an unjust deviation, *Hominis est vitium non professionis.* But that it may in all things have a fairer proceeding, let the King take a care, and as much as in you lies do you take care for him, that the Judges of the Law may be always chosen of the learnedst of the profession (for an ignorant man cannot be a good Judge) and of the prudentest and discreetest, because so great a part of the Civil Government lies upon their charge; and indeed little should be done in legal consultations without them, and very much may be done by their prudent advices, especially in their Circuits,

if right use were made of them: Believe me Sir, much assistance would be had from them, besides the delivering of the gaols, and trying of causes between party and party, if the King by himself (which were the best) or by his Chancellor did give them the charge according to occurrences at their going forth, and receive a particular accompt from them at their return home; They would then to the best intelligencers of the true state of the Kingdom, and the surest means to prevent or remove all growing mischiefs within the body of the Realm. Next to the Judges, let care be taken that the Serjeants at Law be such as are most probable to be made Judges in the next turn, and never to be advanced to that state and degree (for it is so stiled) for favour or for reward, but only with an eye upon the public good. For the King's Counsel at Law, the King's particular interest will easily persuade him, and those who love his service, to make choice of the most eminent and most active; their experience in these places will make them able for any employment in that profession afterwards. In the Laws we have a native interest, it is our Birth-right and our Inheritance, and I think the whole Kingdom will always continue that mind which once the two Houses of Parliament publicly professed, *Nolumus Legem Angliæ mutare*: under a Law we must live, and under a known Law, and not under an arbitrary Law is our happiness that we do live; and the Justices of Peace, if a good choice be made of them, are excellent instruments to this state.

III. For matter of state and affairs proper for Council board, I dare not take upon me to say much; they are *secreta & arcana*, and are not fit to descend to too low, to too petty matters, or private interests. Let the King be president of this Council himself, not so much by personal presence, (but only in great and weighty affairs): that may overawe the board too much, where in Councils there should be a freedom of discourse and of determination: but in pursuing the acts of his Council table. And I do heartily wish that the Councillors themselves would be so advised in their resolutions, that they should never be sudden, but that all things there propounded and debated one day, should be revised the next, and then confirmed, or altered upon second thoughts. Such gravity in their proceedings would much become the honour of that Board; and what is thus settled, should not be altered again but upon great necessity.

In the choice of Privy Councillors, thus much only in the general, that there may be some of the number who are severally versed in all knowledges, for their better assistance upon Councils of that nature; And although to some persons of great birth, the place of Princes[1] Councellors may be bestowed as an honour unto them, yet generally the motive should be the Parts of the man and not his Person.

IV. The[2] Negotiations of Ambassadors, and Treaties with foreign Princes and Estates, the subject matter of the Treaty must guide the choice of the persons to be employed. But give me leave, I pray, to remember unto you the constant practice of that famous and wise Lady Q. Elizabeth (who was very happy, not so much in a numerous as a wise Councel to advise her.) If it were an Embassy of Gratulation or Triumph, she ever made choice of a person of honour and eminency in his degree, who taking the employment as a work of favour was willing to undertake it at an easy rate for the expense of the Crown (which hath not often been so of later times:) But if it were upon some matter of importance from the State, there were always employed (at least joined in the Commission[3]) some persons of great judgment and known experience, and in such cases men over-green in years were never the principal agents; yet some younger men were joined with the elder, to train them up in state affairs.

V. For matter of war, either by land or sea, your gracious Master [is] so settled in his judgment for peace, as he hath chosen for his Motto that part of our Saviour's beatitudes, *Beati pacifici;* It is a happiness to this nation to be in this blessed condition; God send we surfeit not with it; yet I must tell you, the best way to continue a secure peace, is to be prepared for a war. Security is an ill guard for a Kingdom. But this Kingdom, where the Seas are our Walls, and the Ships our Bulwarks, where safety and plenty (by trade) are concomitant, it were both a sin and a shame to neglect the means to attain unto these ends: Let brave spirits that have fitted themselves for command, either by sea or by land, not to[4] be laid by, as persons unneces-

[1] So in the original. Should it not be "privy"?

[2] So in the original. It should apparently be "In the."

[3] The end of the parenthesis is not marked in the original.

[4] So in original: "to" should be struck out.

sary for the time; let Arms and Ammunition of all sorts be provided and stored up, as against a day of battle; let the ports and forts be fitted so, as if by the next wind we should hear of an alarum; such a known providence is the surest protection. But of all wars, let both Prince and People pray against a war in our own bowels: The King by his wisdom, justice, and moderation must foresee and stop such a storm, and if it fall must allay it, and the people by their obedience must decline it. And for a foreign war intended by an invasion to enlarge the bounds of our[1] Empire, which are large enough, and are naturally bounded with the ocean, I have no opinion either of the justness or fitness of it, and it were a very hard matter to attempt it with help[2] of success, seeing the subjects of this kingdom believe it is not legal for them to be enforced to go beyond the seas without their own consent, upon hope of an unwarranted conquest; But to resist an invading enemy, or to suppress rebels, the subject may and must be commanded out of the countics where they inhabit. The whole kingdom is but one entire body, else it will necessarily be verified, which elsewhere was asserted, *Dum singuli pugnamus, omnes vincimur.*

VI. But in the next place for foreign Plantations and Colonies abroad, thats[3] both honourable and profitable to disburthen the land of such inhabitants as may well be spared, and to employ their labours in the conquest of some foreign parts without injury to the natives. Yet these cautions are to be observed in these undertakings.

1. That no man be compelled to such an employment; for that were a banishment, not a service fit for a freeman.

2. That if any transplant themselves into plantations abroad, who are known schismaticks, outlaws, or criminal persons, that they may be sent for back upon the first notice: such persons are not fit to lay the foundation of a new colony.

3. To make no extirpation of the natives under pretence of planting Religion: God surely will no way be pleased with such sacrifices.

4. That the people sent thither be governed according to the laws of this realm, whereof they are and still must be subjects.

[1] The original has "your."
[2] So in original. A misprint, I think, for "hope."
[3] So in original. A mistake, I think, for "it is."

5. To establish there the same purity of Religion, and the same discipline for Church-Government without any mixture of Popery or Anabaptisme; lest they should be drawn into factions and schisms, and that place receive them there bad, and send them back worse.

6. To employ them in profitable trades and manufactures, such as the clime will best fit, and such as may be useful to this Kingdom, and return to them an exchange of things necessary.

7. That they may be furnished and instructed for the military part, as they may defend themselves; lest on a sudden they be exposed as a prey to some other nation, when they have fitted the colony for them.

8. To order a trade thither, and thence, in such a manner as some few merchants and tradesmen, under colour of furnishing the colony with necessaries, may not grind them, so as shall always keep them in poverty.

9. To place over them such Governors as may be qualified in such manner as may[1] govern the place, and lay the foundation of a new kingdom.

10. That care be taken that when the industry of one man hath settled the work, a new man by insinuation or misinformation may not supplant him without a just cause; which is the discouragement of all faithful endeavours.

11. That the King will appoint Commissioners in the nature of a Council, who may superintend the works of this nature, and regulate what concerns the colonies, and give an accompt thereof to the King or to his Council of State.

VII. For matter of Trade, I confess it is out of my profession, yet in that I shall make a conjecture also, and propound some things to you, whereby (if I am not much mistaken) you may advance the good of your country and profit of your Master.

1. Let the foundation of a profitable Trade be thus laid, that the exportation of home commodities be more in value than the importation of foreign, so we shall be sure that the stocks of the kingdom shall yearly increase, for then the balance of trade must be returned in money or bullion.

2. In the importation of foreign commodities, let not the merchant return toys and vanities (as sometimes it was else-

[1] So in original. It should be "they may."

where Apes and Peacocks) but solid merchandize, first for necessity, next for pleasure, but not for luxury.

3. Let the vanity of the times be restrained, which the neighbourhood of other nations have induced, and we strive apace to exceed our pattern; Let vanity in apparel, and which is more vain, that of the fashion be avoided. I have heard that in Spain (a grave nation, whom in this I wish we might imitate) they do allow the players and courtesans the vanity of rich and costly cloaths, but to sober men and matrons they permit it not, upon pain of infamy (a severer punishment upon ingenious natures than a pecuniary mulct.)

4. The excess of diet in costly meats and drinks fet from beyond the seas would be avoided; wise men will do it without a law, I would there might be a law to restrain fools. The excess of wine costs the kingdom much, and returns nothing but surfeits and diseases: were we as wise as easily we might be, within a year or two at the most, if we would needs be drunk with wines, we might be drunk with half the cost.

5. If we must be vain and superfluous in laces and embroideries which are more costly than either warm or comely, let the curiosity be the manufacture of the natives: then it should not be verified of us *Materiam superabat opus.*

6. But in stead of crying up all things which are either brought from beyond sea or wrought here by the hands of strangers, let us advance the native commodities of our own kingdom, and employ our country-men before strangers: let us turn the wools of the land into cloaths and stuffs of our own growth, and the hemp and flax growing here into linen cloth and cordage; it would set many thousand hands on work, and thereby one shilling worth of the materials would by industry be multiplied to five, ten, and many times to twenty times more in the value being wrought.

7. And of all sorts of thrift for the public good, I would above all others commend to your care the encouragement to be given to Husbandry, and the improving of lands for tillage: there is no such usury as this. The King cannot enlarge the bounds of these Islands, which make up his Empire, the Ocean being the unremovable wall which encloseth them, but he may enlarge and multiply the revenue thereof by this honest and harmless way of good husbandry.

8. A very great help unto Trade are navigable rivers, they are so many indrafts to attain wealth, whereby[1] art and industry let them be made, but let them not be turned to private profit.

9. In the last place, I beseech you take into your serious consideration that Indian wealth, which this island and the seas thereof excel in, the hidden and rich treasure of Fishing: Do we want an example to follow? I may truly say to the English go to the pismire thou sluggard. I need not expound the text; half a day's sail with a good wind will shew the mineral, and the miners.

10. To regulate all these it will be worthy the care of a subordinate Council, to whom the ordering of these things may be committed, and they give[2] an accompt thereof to the State.

VIII. Lastly for the affairs of Court, you are much better able to instruct yourself than any man else can, much less than myself, who have scarce stept within the Court gates but as by chance and at the most as a stranger; yet in this also I shall be bold to tell you my thoughts.

In the disposing of the offices and affairs of Court, the King hath a latitude for his affection, which in matters touching the public he must deny to himself: Here he is more properly *Paterfamilias*, in the other he is *Pater Patriæ*. There are many places in Court which a mere formal man may perform, because they are but as the services of a private family, and in which the public hath little interest. And yet in these the choice had need be of honest and faithful servants, as well as of comely outsides, who can bow the knee and kiss the hand, and perform other services of small importance compared to this of public imployment. King David, Psalm 121, propounded a rule to himself for the choice of his courtiers; he was a wise and a good King, and a wise and a good King shall do well to follow such a good example, and if he find any to be faulty (which perhaps cannot suddenly be discovered) let him take on his,[3] this resolution as King *David* did, *There shall no deceitful person dwell in my house.* But for such as shall bear office in

[1] So in the original. I think it should be "wherefore by."
[2] So in the original. Probably "and they to give," &c.
[3] So in original. I suppose "take on him."

the King's house, and manage the expences thereof, it is much more requisite to make a good choice of such servants both for his thrift and for his honour.

For your part, I shall wish that you would not interpose your self much in these things, which are properly for the officers of the Household; that may draw too much envy upon you, and this would be too low for your thoughts (who will find enough to busy you about of a higher nature): Yet this will very well become you and your general trust, not to suffer the King to be too much abused, where your vigilance can prevent it. But then the way of doing it would be thus, to advertise the King of the defects, and then himself to find them out, rather as if it were by accident, than as prompted unto it.

In Court there are also some other requisites, which in their seasons may be thought upon; besides the serious affairs pertaining to government, which are many: Matter of pastime and disport are fit in their seasons, but if they shall be too common they will lose their repute, and become arguments of lightness rather than of recreation. Where there is a Queen and Lady[1] of Honour attending her person, sometimes to entertain them with Revels and Masks, are ornaments fit for a Court. Otherwise for a King or a young Prince who are active (and to be so commends them), sports abroad, and of more manly and useful deportment, as riding the great horse, the Tilt, the Barriers, the Tennis, &c., are more commendable. But neither in jest or earnest must there be countenance or ear given to flatterers or sycophants, the bane of all Courts. They are flies who will not only buz about in every ear, but will blow and corrupt every place where they light.

Sir, I cannot flatter, I have dealt plainly and clearly with you, according to the freedom you have been pleased to afford me. I have but a word or two more to trouble you with.

You serve a gracious Master and a good, and there is a noble and a hopeful Prince, whom you must not disserve; Adoré not him as the rising sun in such a measure, as that you put a jealousy into the father, who raised you; Nor out of the confidence you have in the father's affections, make not yourself suspected of the son; keep an equal and a fit distance,

[1] So in the original. It should apparently be "ladies."

so may you be serviceable to both, and deservedly be in the favour of both.

If you find in these, or in any other your observations (which doubtless are much better than these loose collections) anything which you would have either the father or the son to take to heart, an admonition from a dead author, or a caveat from an impartial pen, whose aim neither was nor can be taken to be at any particular by design, will prevail more and take better impression than a down right advice, which perhaps may be mistaken, as if it were spoken magisterially.

Thus may you long live a happy instrument for your King and Country: you shall not be a meteor, or a blazing star, but *stella fixa*, happy here, and more happy hereafter. *Deus manu sua te ducat*, thats the hearty prayer of,

Your most obliged Servant,

In the only copy of this tract which I have seen I can find no traces of any signature; but as a good deal of the edge has been cut off in the binding I cannot be sure that there never was one. The title-page (which I have not reproduced) informs us that it was printed in 1661, for R. H. and H. B. and was to be sold at Westminster and the Royal Exchange; and that it had never been printed before.

I have not corrected any *word* in it without notice. But in the spelling, the punctuation, and the employment of capital letters, I have used my own judgment. It is not probable that the spelling of the print represents that of the original manuscript: it comes so near to the modern form, that I have no doubt it was modernised by the printer and represents the ordinary orthography of 1661. And as for punctuation and capitals, they are governed by no principle of any kind, and would be very uncouth and perplexing to the reader of a modern book.

The much enlarged and altered version which follows appeared in print for the first time, I believe, two years after; but without any history except what is contained in the title.

A COPY OF A LETTER CONCEIVED TO BE WRITTEN TO THE LATE DUKE OF BUCKINGHAM WHEN FIRST HE BECAME A FAVOURITE TO KING JAMES; CONTAINING SOME ADVICES TO THE DUKE FOR HIS BETTER DIRECTION IN THAT EMINENT PLACE OF FAVOURITE: DRAWN AT THE ENTREATY OF THE DUKE HIMSELF. FROM SIR FRANCIS BACON.[1]

Noble Sir,

What you requested of me by word, when I last waited on you, you have since renewed by your letters. Your requests are commands unto me; and yet the matter is of that nature, that I find myself very unable to serve you therein as you desire. It hath pleased the King to cast an extraordinary eye of favour upon you, and you express yourself very desirous to win upon the judgment of your master, and not upon his affections only. I do very much commend your noble ambition herein; for favour so bottomed is like to be lasting; whereas if it be built but upon the sandy foundation of personal respects only, it cannot be long-lived.

Yet in this you have erred, in applying yourself to me, the most unworthy of your servants, to give assistance upon so weighty a subject.

You know I am no courtier, nor versed in state affairs. My life hitherto hath rather been contemplative than active. I have rather studied books than men. I can but guess, at the most, at these things in which you desire to be advised. Nevertheless, to shew my obedience, though with the hazard of my discretion, I shall yield unto you.

Sir, in the first place, I shall be bold to put you in mind of the present condition you are in. You are not only a courtier, but a bed-chamber man, and so are in the eye and ear of your master; but you are also a Favourite, the Favourite of the time, and so are in his bosom also. The world hath so voted you, and doth so esteem of you; for kings and great princes, even the wisest of them, have had their friends, their favourites, their privadoes, in all ages; for they have their affections as well as other men. Of these they make several uses; sometimes to

[1] This is the title of the Lansdowne MS. (a collector's copy, but apparently an independent one), and agrees substantially with that in the Cabala (Ed. 1663), from which the seven opening paragraphs are supplied, the first leaf of the MS. having been lost.

communicate and debate their thoughts with them, and to ripen their judgments thereby; sometimes to ease their cares by imparting them; and sometimes to interpose them between themselves and the envy or malice of their people; (for kings cannot err; that must be discharged upon the shoulders of their ministers; and they who are nearest unto them must be content to bear the greatest load). Truly, Sir, I do not believe or suspect that you are chosen to this eminency, out of the last of these considerations: for you serve such a master, who by his wisdom and goodness is as free from the malice or envy of his subjects as, I think I may truly say, ever any king was who hath sat upon his throne before him. But I am confident his Majesty hath cast his eyes upon you, as finding you to be such as you should be, or hoping to make you to be such as he would have you to be; for this I may say without flattery, your outside promiseth as much as can be expected from a gentleman. But be it in the one respect or other, it belongeth to you to take care of yourself, and to know well what the name of a Favourite signifies. If you be chosen upon the former respects, you have reason to take care of your actions and deportment, out of your gratitude, for the King's sake; but if out of the latter, you ought to take the greater care for your own sake.

You are as a new-risen star, and the eyes of all men are upon you: let not your own negligence make you fall like a meteor.

The contemplation then of your present condition must necessarily prepare you for action. What time can be well spared from your attendance on your master will be taken up by suitors, whom you cannot avoid nor decline without reproach. For if you do not already, you will soon find the throng of suitors attend you; for no man almost who hath to do with the King will think himself safe, unless you be his good angel and guide him; or at least that you be not a *Malus Genius* against him: so that, in respect of the King your master, you must be very wary that you give him true information; and if the matter concern him in his government, that you do not flatter him. If you do, you are as great a traitor to him in the court of heaven, as he that draws his sword against him. And in respect of the suitors which shall attend you, there is nothing will bring you more honour and more ease, than to do them what right in justice you may, and with as much speed as you may: for

believe it, Sir, next to the obtaining of the suit, a speedy and gentle denial (when the case will not bear it) is the most acceptable to suitors. They will gain by their dispatch, whereas else they shall spend their time and money in attending; and you will gain in the ease you will find in being rid of their importunity. But if they obtain what they reasonably desired, they will be doubly bound to you for your favour. *Bis dat qui cito dat;* it multiplies the courtesy, to do it with good words and speedily.

That you may be able to do this with the best advantage, my humble advice is this. When suitors come unto you, set apart a certain hour in a day to give them audience. If the business be light and easy, it may by word only be delivered, and in a word be answered; but if it be either of weight or of difficulty, direct the suitor to commit it to writing (if it be not so already) and then direct him to attend for his answer at a set time to be appointed; which would constantly be observed, unless some matter of great moment do interrupt it. When you have received the petitions, (and it will please the petitioners well to have access unto you to deliver them into your own hand,) let your secretary first read them, and draw lines under the material parts thereof; (for the matter, for the most part, lies in a narrow room). The petitions being thus prepared, do you constantly set apart an hour in a day to peruse those petitions; and after you have ranked them into several files, according to the subject matter, make choice of two or three friends, whose judgments and fidelities you believe you may trust in a business of that nature; and recommend it to one or more of them, to inform you of their opinions, and of their reasons for or against the granting of it. And if the matter be of great weight indeed, then it would not be amiss to send several copies of the same petition to several of your friends, the one not knowing what the other doth, and desire them to[1] return you their an-

[1] For the rest of the letter the text is taken from the Lansdowne MS., 213, f. 92; of which the first leaf is wanting. It is, I think, the better copy of the two; but it seems to be an independent one; and it is not easy to understand in what relation they stand to each other. The variations are very many, but for the most part unimportant, as far as the sense is concerned. They are such as a man might naturally make in writing or dictating a fresh copy of his own work, but hardly such as he would take the trouble to introduce by way of correction in revising it. I have not thought it worth while to make a complete collation, which would take a good deal of space. But wherever the sense is materially affected by the difference, I have given in the foot-notes the reading of the other copy. C means the copy in the Cabala: L the Lansdowne MS.

swers (by a certain time to be by you prefixed) in writing. So may you receive[1] an unpartial answer, and by comparing one with the other you shall both discern the ability and the faithfulness of your friends, and be also enabled to give a judgment yourself thereupon as an oracle. But by any means trust not solely to your own judgment; for none that lives is omniscient: nor trust to your servants' neither, who may mislead you or misinform you; by which perhaps they may gain a few crowns, but the reproach will fall on none but yourself, if it be not rightly carried.

For the facilitating your dispatches, my advice is further, that you divide all your petitions, and all therein contained, under several heads: which I conceive may be fitly ranked into these eight sorts.

I. Matters concerning Religion, the Church and the Churchmen.

II. Matters concerning Justice, the Laws, and the Professors thereof.

III. Councillors, the Council Table, and the great offices and officers of the kingdom.

IV. Foreign Negociations and Embassies.

V. Peace and War, both foreign and civil, and in that the Navy and Forts, and what belongeth to them.

VI. Trade, both at home and abroad.

VII. Colonies and foreign Plantations.

VIII. The Court and Curiality.

And whatsoever will not fall naturally under one of these eight heads, believe, Sir, it will not be worthy of your thoughts, in this capacity we now speak of. And of these sorts, I'll warrant you that you will find enough to keep you in business.

I begin with the first, which concerns Religion.[2]

1. In the first place, be you rightly persuaded and settled in the true Protestant Religion, professed by the Church of England; which doubtless is as sound and orthodox in the doctrines thereof, as any Christian Church in the world.

2. And in this you need not be a monitor to your master the King. The chiefest of his imperial titles is to be the Defender of the Faith, and his learning is eminent, not only above other princes, but above other men; be but his scholar, and you are safe in that.

[1] perceive. L.

[2] So C. L. omits the line.

3. For the discipline of the Church of England by Bishops, etc. I will not positively say that it is *jure divino;* but this I say and think, *ex animo,* that it is nearest to the apostolical truth; and I shall confidently say, it is fittest for Monarchy of all other. I will use no other authority unto you, than that excellent proclamation set out by the King's Majesty himself in the first year of his reign, and prefixed before the book of Common Prayer, which I desire you to read; and (if at any time there should be the least motion[1] made for innovation), to put the King in 'mind' to read it himself. For it is most dangerous in a state to give ear to the least alteration of government.

4. Take heed, I beseech you, that you be no instrument to countenance the Romish Catholics, nor the religion professed by them.[2] I cannot flatter you; the world, Sir, believes that some near in blood to you are too much of that persuasion; you may use them with fit respects, according to the bond of nature; you are of kin, and so must be a friend to their persons, but not to their errors.

5. The Archbishops and Bishops, next under the King, have the government of the Church and affairs ecclesiastical: be not, Sir, a mean to prefer any to those places for any by-respect; but only such as for their learning, gravity, and worth are deserving: and whose lives and doctrine are and ought to be exemplary.[3]

6. The Deans, Canons, and Prebends of cathedral churches, in their first institution, were of great use in the Church; and they were not only to be of counsel with the Bishop for his revenue, but chiefly for his government[4] in causes ecclesiastical: use your best means to prefer such to those places as are fit for that purpose; men eminent for their learning, piety, and discretion; and put his Majesty often in mind thereof; and let them be reduced again to the primitive institution.

7. You will be often solicited, and perhaps importuned, to prefer scholars to church livings. You may further your friends in that way, *cæteris paribus;* otherwise, I pray, remember that these are places not merely of favour; the charge of souls lies

[1] So C. L. has "mention." [2] C. omits this clause.
[3] but only for their learning, gravity, and worth: their lives and doctrine ought to be exemplary. C. The words "and ought to be" should apparently have been struck out when the correction was made.
[4] assistants. L.

upon them; the greatest account whereof will be required at their own hands; but they will share deeply in their faults that are instruments of their preferments.

8. Besides the Roman Catholics, there are a generation of sectaries, the Anabaptists, Brownists, Familists, Scripturists, and many other of that kind. They have been several times very busy in this kingdom, under the colourable pretensions of zeal for the reformation of religion. The King your master knows their dispositions very well; a small thing will put him in mind of them; his Majesty had experience of them in Scotland, I hope he will beware of them in England; a little countenance or connivance sets them on fire.

9. Order and decent ceremonies in the Church are not only comely but commendable; but then there must be great care taken not to introduce innovations. They will quickly prove scandalous. Men are naturally over-prone to superstition; the true Protestant religion is settled[1] in the golden mean; the enemies unto her are the extremes on either hand.

10. The persons of church-men are to be had in due respect for their work's sake, and protected[2]; but if a clergyman be loose and scandalous, he must not be patronized nor winked at; the examples of but a few that are such corrupt many.

11. Great care must be taken that the patrimony of the Church be not sacrilegiously diverted to lay uses: his Majesty in his time hath most religiously stopped a leak which did much harm, and would else have done a great deal more.[3] Be sure, as much as in you lies, to stop the leak on all occasions.

12. Colleges and schools of learning are to be cherished and encouraged, for there is the seminary to breed up a new stock to furnish the Church and Commonwealth when the old store is dead or transplanted. This kingdom hath in this later age been famous for good literature; and if preferment shall attend deservers, there will not want supplies.

II. NEXT to Religion, let your care be to promote Justice: for by justice and mercy is the King's throne established.

1. Let the rules[4] of justice be the law[5] of the land, an impar-

[1] seated. C.
[2] protected from scorn. C.
[3] See Act 1 Jac. I. c. 3, by which Bishops were disabled from alienating any of the possessions of their Sees to the crown.
[4] rule. C.
[5] laws. C.

tial arbiter between the King and his people, and between one subject and another: I shall not speak superlatively of them, lest I be suspected of partiality, in regard of my own profession; but this I may truly say, they are second to none in the Christian world.

2. As far as it may lie in you, let no arbitrary power be introduced. The people of this kingdom love the laws thereof, and nothing will oblige them more than an assurance of enjoying them; what the Nobles once said upon occasion in Parliament, *Nolumus leges Angliæ mutare,* is imprinted in the hearts of all the people.

3. But because the life of the laws lies in the execution and administration of them, let your eye, in the first place, be in the choice of good Judges. These properties they have need to be furnished with; to be learned in their own profession; patient in hearing; prudent in governing; powerful in their eloquence to persuade and satisfy both parties and auditors; just in their judgment; and, to sum up all, they must have these three attributes; 1. they must be men of courage, 2. fearing God, 3. and hating covetousness; an ignorant man cannot, a coward dares not, be a good judge.

4. By no means be you persuaded to interpose yourself, by word or letter, in any cause depending, or like to be depending, in any court of justice, nor suffer any man[1] to do it where you can hinder it: and by all means dissuade the King himself from it, upon the importunity of any either for their friends or themselves. If it should prevail, it perverts justice; but if the Judge be so just, and of so undaunted a courage (as he ought to be) as not to be inclined thereby, yet it always leaves a taint of suspicion and prejudice behind it. Judges must be chaste as Cæsar's wife, neither to be, nor so much as suspected in the least to be unjust; and, Sir, the honour of the Judges in judicature is the King's honour, whose person they represent.

5. There is great use of the service of the Judges in their circuits, which are twice in the year held throughout the kingdom, for the trial of a few causes between party and party, and the delivering [of the gaols in the several

[1] Any other great man. C.

counties,[1]] and good expedition of justice; yet are they of more use for the government of the countries through which they pass, if that were well thought upon. For if they had instructions for that purpose, they might be the best intelligencers to the King of the state of the whole kingdom, of the dispositions of the people, of their inclinations, of their mutations and motions, which are necessary to be understood truly.

6. To this end I could wish, that against every circuit all the Judges should, sometimes by the King himself, or sometimes by the Lord Chancellor or Lord Keeper in the King's name, receive a charge of those things which the present times did most require; and at their return should deliver a faithful account thereof, how they found and left the countries thorough which they passed, and in which they kept their assizes.

7. And that they might the better perform this work, which might be of great importance, it will not be amiss that the charge given the Judges be sometimes in public, as it useth to be in the Star-chamber, at the end of the term next before the circuit begin, where the King's care of justice and the good of the people may be published; and that sometimes also it may be given them in private, to communicate to the Judges some things not so fit to be publicly delivered.

8. I could wish also that the Judges were directed to make a little longer stay in a place than usually they do; a day more in a country would be a good addition, although their wages were for their circuits increased in proportion: it would stand better with the gravity of the employment; whereas now they are sometimes enforced to rise over-early and to sit over-late for the dispatch of their business, to the extraordinary trouble of themselves and of the country; the times not indeed being *horæ juridicæ;* and which is more, they would have the more leisure of informing themselves, *quasi aliud agentes,* of the true state of the country.

9. The attendance of the sheriffs of the counties, accompanied with the principal gentlemen, in a comely, not costly equipage, upon the Judges of assize at their coming into the

[1] The words within the brackets are supplied from the Cabala, the reading of which ("the trial of a few causes between party and party or delivering of the gaols in the several counties are of great use for the expedition of justice, yet they are of much more use," etc.,) appears to be otherwise less correct. "*They*" must, I think, mean the Judges, not the trial of causes.

place of their sitting, and at their going out, is not only a civility, but of use also: it raiseth a reverential respect to the persons and places of the Judges, who coming from the King himself of so great an errand, should not be neglected.

10. If any sue to be made a Judge, for my own part I should suspect him: but if he should directly or indirectly bargain for a place of judicature, let him be rejected with shame; *Vendere jure potest, emerat ille prius:* He that buys in gross, believe me he will sell in retail.[1]

11. When the place of chief Judge in a court[2] becomes vacant, and a puisne Judge of the same court, or of another court, hath approved himself fit and deserving, it would be a singular good encouragement for him and others if such an one be sometimes preferred and advanced.

12. Next to the Judges, there would be care taken in the choice of such as are called to the degree of Sergeants at Law, for such they must be before they be made Judges. None should be made Sergeants but such as probably might be held fit to be Judges[3] afterwards, when their experience at the bar hath fitted them for the bench: therefore by all means cry down that unworthy course of late times, that they should pay monies for it; it may satisfy some courtier, but it is no honour to the person so preferred, nor to the King who prefers him.

13. For the King's counsel at law, especially his Attorney General, and Solicitor General, I need say nothing: their continual use for the King's service, not only for the revenue, but for all the parts of his government, will put the King in mind, and those who love his service, to make choice of men every way fit and able for that employment; they had need be learned in their profession, and not ignorant in other things, and to be dexterous in the discharge of their affairs.

14. The King's Attorney in the Court of Wards is in the true quality of the Judges; therefore what hath been observed already of the Judges (which are intended principally of the three great courts of law at Westminster) may be applied to the choice of the Attorney of that court.

15. The like for the Attorney of the Duchy of Lancaster, who partakes of both qualities, partly of a judge in the court, and

[1] L. omits the Latin verse: C. omits the translation.
[2] in Court. L.
[3] This clause is omitted in L., and supplied from C.

partly of an attorney-general, for so much as concerns the proper revenues of the Duchy.

16. I must not forget the Judges of the four circuits in the twelve counties of the Principality of Wales, who although they are not of the first magnitude, nor need to be of the degree of the coif, (only the Chief Justice of Chester, who is one of the number, is so,) yet are they considerable in the choice of them, by the same rules as the other Judges are; and they sometimes are, and fitly may be, transplanted into the higher courts.

17. There are many courts, some superior, some provincial, and of a lower orb: it were to be wished, and it is fit to be so ordered, that every of them keep themselves within their proper spheres. The harmony of justice is then[1] the sweetest, when there is no jarring about the jurisdiction of their courts; which methinks wise men cannot differ upon, their true bounds are for the most part so truly known.

18. Having, Sir, said thus much of the Judges, somewhat will be fit to put you in mind concerning the ministers[2] of justice: the High Sheriffs of the counties in the first place, which have been very ancient in this kingdom; I am sure before the conquest. The choice of them I recommend to your care, and that you (at times fit for it) do put the King in mind of it; that as near as may be they be such as are fit for those places: for they are of great trust and power; [the *posse comitatus*, the power of[3]] the whole county being legally committed unto them.

19. It is agreeable with the intention of the law that the choice of the High Sheriffs should be by the recommendation of the great officers of the kingdom, and by the advice of the Judges, who are presumed to be well read in the gentry of the kingdom:[4] although the King may do it of himself, yet the old way is the good way.

20. I do also utterly condemn the practice of the later times, which hath of late crept in the court (at the back-stairs), that some who were pricked for sheriffs and were fit men for the office should make means to get out of the list; and others that

[1] there. L. [2] principal ministers. C.
[3] The words within the brackets are supplied from C.
[4] the condition of the gentry of the whole kingdom. C.

were never thought upon, nor yet of that worth to be sheriffs, should be nominated; and both for money.

21. I must not omit to put you in mind of the Lords Lieutenants and the Deputy Lieutenants of the several counties: their proper use is for the ordering the military affairs, in order against an invasion from abroad, a sedition, insurrection, or rebellion at home; good choice would be made of them, and prudent instructions given to them,[1] and as little of the arbitrary power as may be left unto them; and that the muster-masters, and other under officers, encroach not upon the subject.[2]

22. The Justices of the Peace are of great use. Anciently, there were the conservators of the peace; these are the same, saving that the several acts of Parliament have altered their denomination, and enlarged their jurisdiction in many particulars: the fitter they are in their places for the peace of the kingdom, the more heed ought to be taken in the choice of them.

23. But negatively, this I shall be bold to advise, that none be put into either of these commissions with an eye of favour unto their persons, to give them countenance or reputation in the place where they live, but for the King's service sake only; nor any be put out for the displeasure of any great man: it hath been too often used, and it hath been no good service to his Majesty.

24. A word more Sir, (if you please to give leave) for the moderation of justice on the King's part. The execution of justice is committed to the Judges, which seemeth to be the severer part; but the milder part, which is mercy, is wholly left in the King's immediate hand: and justice and mercy are the true supporters of his royal throne. For if the King shall be wholly intent upon justice, it may look with an over-rigid aspect; and if the King shall be too remiss and easy, it draweth contempt upon him. Examples of justice must sometimes be made for terror to some; and examples of mercy sometimes for comfort to others; the one procures fear, and the other begets love. A king must be both loved and feared, else he is lost.

25. The ordinary courts of justice I have spoken of, and of

[1] This clause is omitted in L. and supplied from C.
[2] that will detract much from the King's service. C.

their judges and judicature: I shall now put you in mind of some things touching the High Court of Parliament in England, which is superlative; and therefore it will behove me to speak the more warily of it.

26. For the true constitution thereof consists[1] of the two houses, of Lords and Commons, as the members; and the King's Majesty, as the head of that great body. By the King's authority alone, and by his writ, the members of both the houses are assembled, and by him alone are they prorogued and dissolved; but each house may adjourn itself.

27. They being thus assembled, they are more properly a Council to the King, the great Council of the Kingdom, to advise his Majesty of those things of weight and difficulty which concern both the King and kingdom,[2] than a court.

28. No new laws can be made, or old ones abrogated and altered, but by common consent in Parliament, where bills are prepared and presented to the two houses, and there seriously debated[3]; but nothing is concluded but by the King's royal assent in person or by his commissioners delegated; they are but embryos, till he gives life unto them.

29. Yet the House of Peers have power of judicature in some cases: properly to examine, then to affirm, or (if there be cause) to reverse the judgment which hath been given in the King's Bench, which is the court of the highest judicature[4] in this kingdom for ordinary judicature; but in those cases it must be done by writ of error in Parliament: and then their proceeding[5] is not *absoluta potestas*, as in making new laws, in that conjuncture as before is said, but *potestas limitata*, according to the rule of the known laws of this land.

30. But the House of Commons hath only power to censure the members of their own house, in point of election and misdemeanors in or towards that house; and have not, nor ever had the power so much as to administer an oath in any case whatsoever to prepare a judgment.

31. The true use of Parliaments in this kingdom is very excellent; and they would[6] be often called, as the arduous affairs

[1] For the institution of it, it is very ancient in this kingdom: it consisteth, etc. C.
[2] People. C. [3] then delivered. C. [4] jurisdiction. C.
[5] and thus the rule of their proceeding. C. [6] L. omits "would."

of the kingdom shall require; and continue as long as it is necessary and no longer: for then they are but burthens to the people, by reason of the privileges due to the members of the two houses and their attendants; which their privileges and rights are religiously to be observed and preserved: but if they should be unjustly enlarged beyond the true bounds, they might lessen the just power of the Crown, it borders so near upon popularity.

32. All this while I have spoken of the Common Law of England, properly and generally so called, because it is general and common to almost all cases and causes, civil and criminal.

But there is also another law, which is called the Civil or Ecclesiastical Law, which is confined to some few heads, and it is not to be neglected: and although I am a professor of the Common Law, yet am I so much a lover of truth and of learning and of my native country, that I do heartily persuade that the professors of that law, called Civilians (because the Civil Law is their rules[1]), be not discountenanced nor discouraged: else whensoever we should have ought to do with any foreign Prince or state, we shall be at a miserable loss, for want of learned men in that profession.

III. I come now to those things which concern Councillors of State, the Council Table, and the great offices and officers of the kingdom; who are those for the most part furnish out the Council Board.

1. Of councillors there are two sorts: the first are *consiliarii nati*, as I may term them; such are the Prince of Wales, and other the King's sons, (when he hath more): of these I speak not, for they are naturally born to be counsellors to the King, to learn the art of governing betimes.

2. But the ordinary sort of councillors are such as the King, out of a due consideration of their worth and abilities, and withal of their fidelity to his person and his crown, calleth to be of council with him in his ordinary government. And the council-table is so called from the place where they assemble and sit together; and their oath is the only ceremony used to make them such, which is solemnly given unto them at their first admission. These honourable persons are from thenceforth of

[1] guide. C.

that honourable board and body: they cannot come until they be thus called, and the King at his pleasure may spare their attendance, which at their own pleasures they may not do.

3. This being the quality of the service, you may, Sir, easily judge what care the King should use in the choice of them. It behoveth that they be persons of great trust and fidelity, and also of wit and judgment, who shall assist in bearing up eht King's throne.[1]

4. Yet it may not be unfit to call some of younger years, to train them up in that science, and so fit them for those weighty affairs against the time of greatest maturity, and some also for the honour of their persons: but these two sorts not to be tied to so strict attendance as the others, from whom the present dispatch of business is expected.

5. I could wish that their number might not be over-great; the persons of the councillors would be more venerable: and I know that Queen Elizabeth (in whose time I had the happiness to be born and to live many years) was not so much observed to have a numerous as a wise council.

6. The duty of a privy-councillor to a King, I conceive, is not only to attend the council-board at the times appointed, and there to consult of what is propounded; but also to study the things which may advance the King's honour and safety and good of the kingdom, and to communicate the same to the King, or his fellow-councillors, as there shall be occasion. And this, Sir, will concern you more than others, by how much you have a larger share in his affection.

7. And one thing I shall be bold to desire [you] to recommend to his Majesty: when any new thing shall be propounded to be taken into consideration, that no councillor should suddenly deliver any positive opinion thereof: it is not easy with all men to retract their opinions, although there shall be cause for it: but only to hear it, and at the most but to break it at the first, that it may be the better understood at the next meeting.

8. When any matter of weight hath been debated, and seemeth ready for a resolution, I wish it may not be at that sitting concluded, unless the necessity of the time press it, lest

[1] C. adds "and of known experience in public affairs."

upon second cogitations there should be cause to alter; which is not for the gravity and honour of the board.

9. I wish also that the King would be pleased to be sometimes present at the board; it adds a majesty to it: and yet not to be too frequently there; that would render it less esteemed when it is become common: besides it may make the councillors not so free in their debates in his presence as they would be in his absence.

10. Besides the giving of counsel, the councillors are bound by their duties (*ex vi termini*) as well as by their oath, to keep counsel; therefore they are called *de privato consilio regis*, and *a secretioribus conciliis regis*.

11. One thing I shall add in the negative, and which is not fit for that board, the entertaining of private causes of *meum* and *tuum*; those should be left to the ordinary course and courts of justice.

12. There is[1] great care to be used for the councillors themselves to be well chosen, so there is of the clerks of the council for the secreting their consultations: and methinks it were fit that his Majesty be especially[2] moved to give a strict charge, and to bind it with a solemn order (if it be not done already,) that no copies of the orders of the table be delivered by the clerks of the council but by the order of the board; nor any (not being a councillor, or a clerk of the council, or his clerk) to have access to the council books: and that the servants attending the clerks of the council be also bound to secrecy, as well as their masters.

13. For the great offices and officers of the kingdom, I shall say but little; for most of them are such as cannot be well severed from the councillorship; and therefore the same rule is to be observed for the choice[3] of them. In the general only I advise this, let them be set in those places for which probably they are most fit.

14. But in the quality of the persons, I conceive it will be most convenient to have some of every sort, as in the time of Queen Elizabeth was one Bishop at the least, in respect of questions touching religion or government of the Church; one or more skilled in the laws; some for martial affairs; some for foreign affairs: by this mixture one will help another in all

[1] As there is. C. [2] speedily. C. [3] for both in the choice. C.

things which shall there happen to be moved. But if that should fail, it will be a safe way to consult with some other able persons well wayed[1] in the point which is the subject of their consultation; which yet may be done so warily, as may not discover the main end therein.

IV. Fourthly, in the next place I shall put you in mind of foreign negociations, and embassies to or with foreign princes or states; wherein I shall be little able to serve you.

1. Only I shall tell you, Sir, what hath been and ever was the course in the happy days of Queen Elizabeth, whom it will be no dis-reputation to follow: and she did vary, according to the nature of the employment, the quality[2] of the persons she employed; which is a good rule to go by.

2. If it were an ambassage of congratulation or ceremony (which must not be neglected,) choice was made of some noble person eminent in place and able in purse; and such a man would take it for a mark of favour, and discharge it without any great burden to the Queen's coffers, for his own honour's sake.

3. But if it were an embassy of weight, concerning affairs of state, choice was made of some sober person of known judgment, wisdom, and experience; and not of a young man not versed in matter of state; nor of a mere formal man, whatsoever his title or outside were.

4. Yet in company of such, some towardly young noblemen or gentlemen were usually sent also, as assistants or else attendants, according to the quality of the persons; who might be thereby prepared and fitted by this means for the like employment another time.

5. In their company were always sent some grave and sage person skilled in the civil laws, and some ready in the languages, and some who had been formerly conversant in the courts of these princes, and knew their ways; these were assistant in private, not trusted to manage the affairs in public; that would detract from the honour of the principal ambassador.

6. If the negociation were about merchants' affairs, then were

[1] The beginning of the sentence, from "But" to "wayed" is omitted in L. and supplied from C.

[2] So C. L. has "and the quality;" which seems to be wrong.

the persons employed for the most part doctors of the civil law, assisted with some other discreet men; and in such cases the charge was ordinarily defrayed by the company or society of merchants whom the negociation concerned.

7. If lieger ambassadors or agents were sent, to remain in or near the courts of other[1] princes or states (as it was ever held fit), to observe their motions and to hold correspondence with them upon all occasions, such men were made choice of as were presumed to be vigilant and industrious and discreet, and had the language of the place perfect whither they were sent; and with these agents were always sent such as were hopeful and may be worthy[2] of the like employment at another time.

8. Their care was, to give timely intelligence of all occurrents, either to the Queen herself, or to the secretaries of state unto whom they had their immediate relation.

9. Their charge was always borne by the Queen, and daily[3] paid out of the Exchequer, in such proportion as according to the qualities and places might give them an honourable subsistence there: but for reward of their service, they were to expect it afterward at their return, by some such preferment as might be worthy of them, and yet be but little burthensome to the Queen's coffers or revenues.

10. At their going forth they had their general instructions in writing, which might be communicated to the ministers of state whither they were sent; and they had also private instructions upon particular occasions: and at their return, they did always render an account of some things to the Queen herself, of some things to the body of the council, and of some other to the secretaries of state; who made use of them, as there was cause.

11. In those days there was a constant course held, that by the advice of the secretaries, or some principal councillors,[4] there were always sent forth into the parts beyond the seas some young men, of whom good hopes were conceived of their towardliness, to be trained up and made fit for such public employments, and to learn the languages. This was at the charge of the Queen, which was not much; for they travelled but as private gentlemen: and as by their industry their deserts did appear, so were they further employed and rewarded. This

[1] those. C. [2] hopeful to be worthy. C. [3] duly. C.
[4] So C. L. has "there was a constant course for principal councillors."

course, Sir, I shall commend unto you, to breed up a nursery of such public plants.

V. For Peace and War, and those things which appertain to either; I in my disposition and profession am wholly for peace, if it please God to bless this kingdom therewith, as for many years past he hath done.

1. I shall not need to persuade you, Sir, to the advancing of it; nor shall you need to persuade the King your master therein; for that he hath hitherto been another Salomon in this our Israel, and the motto which his Majesty hath chosen, *Beati pacifici*, shews his own judgment: but he must use the means to preserve it, else such a jewel will be lost.

2. God is the God of peace; it is one of his glorious attributes, therefore by him alone we must pray and hope to have it continued: there is the foundation.

3. And likewise the King must not neglect the just ways for it; justice is the best protector of it at home, and provision of war is the best prevention of it from abroad.

4. Wars are either foreign or civil; for the foreign by the King upon some neighbouring nation, I hope we are secure; the King in his pious and just disposition is not inclinable thereunto; his empire is large enough,[1] bounded in with the ocean, as if the very situation of this island had thereby taught both King and people to set up their rests, and say, *Ne plus ultra.*

5. And for a war of invasion from abroad; (only we must not live in a neglective manner and be not over-secure): that is the way to invite it.

6. But if we be always prepared to receive an enemy, (if the ambition or malice of any should invite him,) we may be very confident we shall live long in peace and tranquillity without any attempt at all upon us.

7. To make the preparations hereunto the more assured: in the first place, I shall recommend unto you the care of our outwork, the Navy Royal and shipping of the kingdom, which are the walls thereof: and every great ship is as an impregnable fort or bulwark; and our many safe and commodious ports and havens, in every part of the kingdom, are as the redoubts to secure them.

8. For the body of the ships, no nation of the world doth

[1] So C. except that "long" is printed for "large." L. omits the clause.

equal England for the oaken timber wherewith to build them; and we need not borrow of any another nation iron for spikes and nails, to fasten them together; but there must be a great deal of providence used, that our ship-timber be not unnecessarily wasted.

9. But tackling and sails and cordage, and pitch, tar and hemp, we are beholding to our neighbours for, and buy those things for our money; that must be foreseen and laid up in store against times of need, and not to have those necessaries to seek when we are to use them: but we are much to blame that we make not some of these at home; only pitch and tar we have none all of our own.

10. For the true art of building of ships, for burthen and service both, no nation in the world exceeds us: ship-wrights and all other artisans belonging to that trade must be cherished and encouraged.

11. Powder and ammunition of all sorts we can have plenty at home, and in exchange for other of our home commodities we may be plentifully supplied from our neighbours, which must not in any wise be neglected.

12. With mariners and seamen this kingdom is plentifully furnished: our constant trade of merchandise abroad and other home trade will furnish at a need; and our many navigable rivers will upon occasion repair the store to the Navy Royal and to the merchants, if they be hired, set on work, and well paid for their labour.

13. Sea-captains and other commanders and officers must be encouraged, and rise by degrees, as their approved fidelities and industry deserve it.

14. Our strict league of amity and alliance with our near neighbours the Hollanders is a mutual strength to both;[1] the shipping of both, in conjuncture, being so powerful, by God's blessing, as no foreigner will venture upon. This league and friendship must inviolably be observed.

15. From Scotland in former times we have had some hot alarums, and inroads into the more northern parts of this kingdom; but that most happy union of both kingdoms under one king, our most gracious sovereign, I hope well hath taken away

[1] The word "both" which is omitted in L. is supplied from C.

all occasions of breach between the two nations. Let not the cause arise from England, and I hope the Scots will not adventure; or if they do, I hope that they will find that although to our King they were his first-born subjects, yet unto England belongs the birthright: but this should not be any cause to offer any the least injury to them, nor to suffer any from them.

16. There remains then no danger (by the blessing of God), but a civil war, from which God of his great mercy defend us, as that which is the most desperate and bloody of all others. The King's great wisdom and justice must prevent it, if it may be; but if such a misery should happen, *quod absit*, we must all help to quench[1] that wild-fire with all the diligence that may be.

17. Competition of the crown there is none, nor can be: therefore it must be a fire within the bowels, or nothing; the cures whereof are these, *remedium præveniens*, which is the best physic either for a natural body or a state, by just and equal government to take away the occasion; and *remedium puniens*, if the other prevail not. The service and vigilancy of the Deputy Lieutenants in every county, and of the High Sheriffs, will contribute much in this case for our security.

18. But if that should not prevail, by a wise and timous inquisition, the most peccant humours and humorists must be discovered, purged, and cut off. Mercy in such a case in a king is true cruelty.

19. Yet if the heads of the tribes can be taken off, and the misled multitude will see those errors they wandered in, and return to their obedience, an extent of mercy is both honourable and profitable.

20. A king, against such a storm, must foresee to have a convenient stock of treasure; and neither be without money (which is the sinews of war) nor to depend upon the courtesies[2] which may fail him at a pinch.

21. He must also have a magazine of all sorts of ammunition and arms, which must be had from foreign parts, or provided at home, and to commit them unto several places, under the custody and trust of faithful officers and ministers, if it be possible.

22. He must make choice of the ablest and most expert commanders to conduct and manage the war, either against a foreign invasion, or home rebellion; which must not be persons young

[1] he must quench. C. [2] courtesy of others. C.

and giddy, which dare not only to fight, but also to swear, and drink, and do worse.[1] Such men are neither fit to govern others, nor able to govern themselves.

23. Let not such be discouraged (who deserve well) by misinformations and for satisfying the humours and ambition of others, perhaps out of envy, perhaps out of treachery, or other sinister ends. A steady hand in governing of military affairs is more requisite than in times of peace, because an error committed in time of war may perhaps prove irremediable.

24. If God bless these endeavours, and the King return to his own house in peace, when a civil war shall be at an end, those who have been found faithful in the land must be regarded, yea, and rewarded also; the traitorous and treacherous, who have misled others, severely punished; and the lukewarm neuters and false-hearted friends and followers, (who have started aside like a broken bow) be noted *carbone nigro*. And so I shall leave them, and this part of the work.

VI. I come to the sixth, which is Trade; and that either at home or abroad. And I begin with that which is at home, which enableth the subjects of the kingdom to live, and lays the foundation for a foreign trade by way of traffic with others, which enableth them to live peaceably and plentifully.

1. For the home trade, I first commend unto your consideration the encouragement of Tillage, which well furnisheth the kingdom with corn for the natives, and to spare for exportation: and I myself have known more than once when, in times of scarcity and dearth, in the days of Queen Elizabeth, it was a means to drain much coin out of the kingdom, to furnish us from foreign parts.

2. Good husbands will find the means, by good husbandry, to improve their lands, by lime, chalk, marle, and sea-sand, where it can be had: but it will not be amiss, they be put in mind thereof, and encouraged in their industry.

3. Planting of orchards, in a soil and air fit for them is very profitable, as well as pleasant; perry and cider are both notable beverages in long sea voyages.

4. Gardens are also very profitable, if well planted with artichokes, all sorts of roots, as parsnip, turnip, carrot, and such

[1] and curse. C.

things[1] as are fit for food; whence they are not unfitly called kitchen-gardens, but very properly so named.

5. The planting of hop-yards, sowing of woad, rape seed, and coleseed are very profitable to the planter, in places apt for them, and consequently profitable to the kingdom, which for divers years was furnished with them from Holland and other parts[2] beyond the seas.

6. The planting and preserving of wood, especially for timber, is not only profitable, but commendable, therewith to furnish posterity, both for shipping and building.

7. The kingdom would be much improved by draining drowned lands, and gaining them from the overflowing of the sea and the salt waters, and from fresh water also.

8. And many of these grounds so drained would be exceeding fit for dairies, which, being well housewived, are very profitable and commodious.

9. Much good land might be gained from forests and chases, more remote from the King's access, and from other commonable places, so as there be always a due care taken of the poor commoners, that they have no injury by such improvement.

10. The making Navigable Rivers would be very commodious and profitable; they would be as so many in-draughts of riches and wealth, by conveying commodities with ease from place to place.

11. The planting of hemp and flax would be an unknown advance[3] to the Kingdom, many places therein being as apt for it as any foreign parts.

12. But let these commodities be converted to cordage or linens, and the benefit by those manufactures will be multiplied.

13. The wool which in England is plentiful and good, and leather, are very profitable, if they also be converted into industrious manufactures.

14. Our English dames are much given to the wearing of very fine and costly laces; if they be brought from Italy, or France, or Flanders, they are with them in great esteem; whereas, if the like laces were made by the English, so much thread as would make a yard of lace, put into manufacture,[4] would be of five times, nay, perhaps, of ten or twenty times the value.

[1] roots and such other things. C.
[2] C. omits "Holland and other parts."
[3] advantage. C.
[4] being put into that manufacture. C.

15. The breeding cattle is of much profit, especially the breeding of horses, in many places, not only for travel, but for the great saddle; the English horse, for strength, and courage, and swiftness together, not being inferior to the horse of any other country.[1]

16. The minerals of the kingdom, as lead, copper, iron, and tin, are of great value, and set very many able-bodied subjects on work; it were to be wished that care be taken that they be industriously followed.

17. But of all[2] minerals, there is none like the fishing upon the coasts of these kingdoms and the seas belonging to them: our neighbours who are within half a day's sail of us, with an ordinary wind, can shew us the use and great value thereof; and doubtless there is sea-room enough for both the nations without offending one the other; and this trade of fishing, if with industry followed, would exceedingly support the navy.

18. The kingdom is much enriched of late years by the trade of merchandise which the English drive in foreign parts; and, if it be wisely managed, it must of necessity much increase the wealth thereof: care being taken, that the exportation exceed in value the importation: for then the balance of trade must of necessity be in coin or bullion.

19. This would easily be effected, if the merchants were persuaded or compelled to make their returns in solid commodities, and not too much in vanity, tending to luxury and excess.

20. But especially care must be taken, that monopolies, (which are the canker of all trades,) be by [no] means admitted under the pretence or the specious colour of the public good.

21. To put all these into regulation, if a constant commission directed to men of honesty and understanding were granted, and well pursued, to see to and give order for the managing of these things, both at home and abroad, to the best advantage; and that this commission were subordinate to the council-board; it would produce notable effects.

VII. The next thing is that of Colonies and foreign Plantations, which are very necessary, as outlets to a populous nation, and may be profitable if managed in a discreet way.

[1] kingdom. C.

[2] So C. L. has "after the."

1. First, in[1] the choice of the place,[2] which requires many circumstances; as, the situation, near the sea, for the commodiousness of an intercourse with England; the temper of the air and climate, as may best agree with the bodies of the English, and rather inclining to cold than heat; that it be stored with woods, mines, and fruits, which are naturally in the place; that the soil be such as probably will be fruitful for corn, breeding of cattle, and other conveniences; that it have rivers, both for passages between place and place, and for fishing also; that the natives be not so many, but that there may be elbow-room for them, and for the industrious planters and adventurers also: all which circumstances are in all likelihood to be found in the West-Indies.

2. It would be also such as hath not been already planted by the subjects of any other Christian prince or state, nor over-near neighbouring any of their plantations; and would be more convenient to be chosen by the gentlemen and merchants which move first in the work, than to be designed to them from the King; for it must proceed from the choice and opinion of the people, else it sounds like an exiling; so that the colonies must be raised by the King's leave, not by his command.

3. After the place is made choice of, the first step must be to make choice of a good governor; who (though he have not the name) yet he must have the power of a Viceroy; and if that person who principally moved in that work be not fit for that trust, yet he must not wholly be excluded from command; but then his defect in the governing part must be supplied by such assistants as shall be joined with him, and such also as he shall very well approve of.

4. As[3] at their setting out they must have their commissions and letters patents from the King, that so they may acknowledge their dependency upon the crown of England, and are under his protection; so they must receive some general instructions, how to dispose themselves when they come there, which must be in nature of laws unto them.

5. But the general law, by which they must be governed and guided, must be the common law of England; and to that end

[1] So C. L. omits "first." [2] places. L. [3] L omits "As."

it will be fit that some man reasonably studied in the laws and otherwise qualified for such a purpose, be persuaded (if not thereunto inclined of himself, which were the better) to go thither as a councillor[1] amongst them at the first; and when the plantations were more settled, then to have courts of justice, etc. there as in England.

6. At the first planting, or as soon after as they can, they must make themselves defensible both against the natives and against strangers; and to that purpose they must have the assistance of some able military man, and convenient arms and ammunition for their defence.

7. For the discipline of the Church in those parts, it will be necessary that it agree with that which is settled in England, else it will make a seam and a rent in Christ's coat, which must be seamless; and to that purpose it will be fit that by the King's supreme power in causes ecclesiastical it be put under[2] some bishop and bishoprick of this realm.

8. For the better defence against a common enemy, I think that it would be best that all foreign plantations should be placed in one continent, and near together; whereas if they be too remote the one from the other, they will be disunited, and so the weaker.

9. They must provide themselves of houses, such as for the present they can, and at more leisure of such as may be better; and they first must plant for corn and cattle, and for food and necessary subsistence; and afterward they may enlarge themselves for those things which may be for profit and pleasure, and to traffic with also.

10. Woods for shipping may doubtless there be had, and minerals be found there, and those perhaps of the richest sort; however, the mines[3] out of the fruits of the earth, and in the seas and waters adjoining, may questionless be found in much abundance.

11. In a short time they may build also vessels and ships, for to traffick with the parts adjoining, and also with England, from whence they may be furnished with such things as they want, and in exchange or barter send from thence other things

[1] a Chancellor. C.
[2] in causes ecclesiastical within all his dominions, they be subordinate under. C.
[3] Instead of "the mines," the MS. has "many advantages."

with which quickly, either by art or nature, they may or do abound.

12. But these things must by all means be prevented; that no bankrupt, for shelter; nor known murtherer or other wicked person, to avoid the law; nor any notorious heretic or pestilent schismatic, be suffered to go into those countries; or, if (unknown) they do creep in there, then (when discovered and known) not to be harboured and continued: else the place would receive them naught, and return them into England upon all occasions much worse.

13. That no merchants under colour of driving trade thither or from thence, be suffered to work upon the planters' necessities.

14. And that to regulate all these inconveniences, which else insensibly will grow upon them, that the King be pleased to erect a subordinate council in England, whose care and charge it shall be, to advise and put in execution all things which shall be found fit for the good of those new plantations; who upon all occasions shall give an account thereof and of their proceedings to the King, or to the council-board, and from thence receive such directions as[1] may best agree with and be most suitable to the government of that place.

15. That the King's reasonable profit be not neglected, partly upon reservations of moderate rents and services; and partly upon custom upon[2] importation and exportation of merchandise; which for a convenient time at and[2] after the plantation begun would be very easy, to encourage the work; but after it is well settled may be raised to a considerable proportion, worthy the acceptance.

VIII. I COME to the last of those things I propounded, which is, the Court and Curiality. The other did properly concern the King in the regal capacity, as *pater patriæ;* this more properly in the natural capacity, as *pater-familias:* and herein,

1. I shall, in a word, and but in a word or two only, put you, Sir, in mind that the King in his own person, both in respect of

[1] "and" in L.
[2] "partly upon customs, and partly upon." C.
[3] C omits *at and.* The meaning is, "at the commencement of the plantation and for a convenient time after."

his household or court, and in respect of his whole kingdom, (for a little kingdom is but as a great household, and a great household as a little kingdom), must be exemplary,[1] *Regis ad exemplum*, etc. But for this, God be praised, that charge is easy; for your gracious master, for his learning, piety, justice and bounty, may be as it is not only a precedent to his own subjects, but to foreign princes also; yet he is still but a man, and *mementos* may be useful; and, being discreetly used, cannot but take well with him.

2. But your greatest care must be, that the great men of his court, (for you must give me leave to be plain with you, for so is your injunction laid upon me,) yourself in the first place, who is first in the eye of all men, give no just cause of scandal, either by light, or vain, or oppressive carriage.

3. The great officers of the King's house had need to be both discreet and provident persons, both for his honour and for his thrift;[2] they must look both ways, else they are but half-sighted: yet in the choice of them there is more latitude left to affection than in the choice of councillors, and of the great officers of state before touched, which must always be made choice of out of judgment merely; for that in them the public hath a great interest.

4. For the other ministerial officers in court, (as, for distinction's sake they may be termed,) there must be an eye unto them and upon them. They have usually risen in the house by degrees, and it is a noble way to encourage faithful service: but the King must not bind himself to a necessity therein, for then it will be held *ex debito:* neither must he alter it without an apparent cause for it: but to displace any who are in, upon displeasure (which for the most part happeneth by misinformation of some great man), is by all means to be avoided, unless there be apparent cause for it.

5. In those things you may sometimes interpose, to do good and just offices; but for the general, I should rather advise you to meddle little, but leave the ordering of those household officers to the white-staves, which are those honourable persons, to whom it properly belongeth to be answerable to the King for it;

[1] So C. L has "put you sir in mind of the King . . . . kingdom. He must be exemplary."

[2] "Trust" in MS.

and to those other officers of the Green-cloth, who are subordinate to them.[1]

6. Yet for Green-cloth law, take it in the largest sense, I have no opinion of it further than as it is regulated by the just rules of the common laws of England.

7. Towards the support of his Majesty's own table, and of the Prince's, and of his necessary officers, his Majesty hath a good help by Purveyance, which justly is due unto him; and, if justly used, is no great burthen to the subject; but by the purveyors and their under-officers it is many times abused. In most parts of the kingdom, I think, it is already reduced unto a certainty in money; and if it be indifferently and discreetly managed, it would be no hard matter to settle it[2] throughout the whole kingdom; yet to be renewed from time to time: for that will be best and safest, both for king and people.

8. The King must be put in mind to preserve the revenues of the crown, both certain and casual, without diminution, and to lay up treasure in store against a time of exigency; empty coffers gives but an ill sound, and makes the people many times forget their duty, thinking the King must be beholding unto them for a supply.

9. I shall by no means think it fit that his Majesty reward any of his servants with the benefit of forfeitures, either by fines in the court of Star-chamber, or High Commission court, or other courts of justice, or that they should be farmed out, or bestowed upon any so much as by promise, before judgment given; it would be neither profitable nor honourable.

10. Besides matters of serious consideration, in the courts of princes there must be time for pastimes and disports: when there is a queen and ladies of honour attending her, there must be sometimes masques, and revels, and interludes; and when there is no queen, nor princess, as now;[3] yet at festivals, and

[1] C adds "as a kind of council and a court of justice also."

[2] "Settle it so." C.

[3] "Blackbourne," says Professor Craik (*Bacon, his Writings and his Philosophy*, vol. iii. p. 237), "is puzzled by a passage which he conceives would imply that the paper had been written after the death of the Queen (in March 1619); but the expression to which he refers—'when there is no Queen or Princess, as now'—may evidently be taken in *two senses*." No doubt "as now" may mean either "as now there is" or "as now there is not;" but I confess that to me the words convey the impression that there was *not* at the time of writing either Queen or Princess at Court. It will be observed that they are not found in the other copy.

for entertainment of strangers, or upon such occasions, they may be fit also: yet care would be taken, that in such cases they be set off more with wit and activity than with costly and wasteful expences.

11. But for the King, Prince, Lords and Chivalry[1] of the court, I rather commend, in their turns and seasons, the riding of the great horse, the tilt, the barriers, tennis, and hunting, which are more for the health and strength of those that use and exercise them, than in an effeminate way to please themselves and others.

12. Dice and cards may be sometimes used for recreation, and to unbend the bow, when field-sports cannot be had; but not to[2] use them as a mean to spend the time, much less to misspend the thrift of the gamesters.

13. And now the Prince grows up fast to be a man, and is of a sweet and excellent disposition; and it would be an irreparable stain and dishonour upon you, having that access unto him, if you yourself should mislead him, or suffer him to be misled by any loose or flattering parasite: the whole kingdom hath a deep interest in his virtuous education; and if you (keeping that distance which is fit) do humbly interpose yourself in such a case, he will one day give you thanks for it.

Sir,—I shall trouble you no longer; I have run over these things as I first propounded them; please you to make use of them, or any of them, as you see occasion; or to lay them by, as you shall think best, and to add to them (as you daily may) out of your own experience. And I must be bold to put you in mind again of your present condition; you are in the quality of a sentinel; if you sleep, or neglect your charge, you are an undone man, and you may fall much faster than you have risen. I have but one thing more to mind you of, which nearly concerns yourself; you serve a great and gracious master, and there is a hopeful young prince, whom you must not disrespect; it behoves you to carry yourself wisely and evenly between them both: do not you so adore the sun rising, that you

He speaks there of "a Queen and ladies of honour attending on her;" but not of a Princess; which was the case of the English Court in 1615 and 1616. After the Queen's death in 1619 there was neither Queen nor Princess, and if Bacon was revising and correcting the work after that date, nothing was more natural than to insert such a clause.

[1] "Cavalry" in L.

[2] L omits "to."

forget the father that raised you to this height; nor be you so obsequious to the father, that you give just cause to the son to suspect that you neglect him: but carry yourself with that judgment, as, if it be possible, may please and content them both; which I believe truly will be no hard matter to do: so may you live long beloved of both, which is the hearty prayer of

Your most obliged and devoted Servant

F. B.

CHAPTER II.

A.D. 1616. AUGUST–NOVEMBER. ÆTAT. 56.

1.

ANOTHER of the most valuable of Bacon's occasional works—his proposition to the King touching the compiling and amendment of the laws of England—belongs to the period between June 1616 and March 1616–7. At what exact time within that period it was written or presented, I do not know how to determine. It may have been a work of the long vacation, or it may have been presented as a New Year's gift. But no date is needed to account for or explain it. Indeed it may be doubted whether it ought to be classed among the "occasional works" at all; for the occasion to which it addresses itself was coextensive with his adult life. Since he was a man there had been no time which did not furnish occasion for the desire, if not the endeavour, to see the laws of England digested into an intelligible and manageable code. In his first speech in Parliament of which we have any detailed report (26 February, 1592–3), though its business was to support a motion for supply, he took occasion from a remark dropped by the Lord Keeper on the multiplicity of the existing laws, to enlarge (in terms which, as far as we can judge from the imperfect report, were substantially the same as the commencement of this paper) upon the importance of reducing and abridging them.[1] In his "Promus of Formularies and Elegancies," which was begun at the commencement of the Christmas vacation of 1594, we find among other quotations, applicable, though not complimentary, to the condition of the law, the following note:—"*Jurisconsulti domus, oraculum civitatis:* now as ambiguous as oracles."[2] A few weeks after, in the playful device which he contributed to the Christmas revels at Gray's Inn, he put

[1] See above, Vol. I. p. 213.

[2] Works, vol. vii. p. 192.

the same topic into the mouth of one of the councillors of the Prince of Purpoole, whose part was to "advise virtue and a gracious government." "Then look into the state of your laws and justice of your land: purge out multiplicity of laws: clear the incertainty of them: repeal those that are snaring; and press the execution of those that are wholesome and necessary: define the jurisdiction of your courts:"[1] etc. In January, 1596–7, he dedicated to Queen Elizabeth the first sample of his *Maxims of the Law*,—a collection of the principal Rules and Grounds of Law dispersed through the whole body of decided cases—a collection which he meant to be his great contribution to the science of his profession, and a principal auxiliary in the work of law reform; and again in his dedication took occasion to magnify the importance and beneficence of that work. "But I am an unworthy witness to your Majesty of a higher intention and project, both by that which was published by your Chancellor in full Parliament from your royal mouth in the five-and-thirtieth of your happy reign"—this was the passage to which he had alluded in his speech in Parliament, on the 26th of February, 1592–3,—"and much more in that which I have since been vouchsafed to understand from your Majesty, importing a purpose for these many years infused in your Majesty's breast, to enter into a general amendment of the state of your laws, and to reduce them to more brevity and certainty; that the great hollowness and unsafety in assurances of lands and goods may be strengthened; the snaring penalties that lie upon many subjects removed; the execution of many profitable laws revived; the judge better directed in his sentence; the counsellor better warranted in his counsel; the student eased in his reading; the contentious suitor that seeketh but vexation disarmed, and the honest suitor that seeketh but to obtain his right relieved: which purpose and intention, as it did strike me with great admiration when I heard it, so it must be acknowledged to be one of the most chosen works, of highest merit and beneficence towards the subject, that ever entered into the mind of any king . . . . and as it is no doubt a precious seed sown in your Majesty's heart by the hands of God's divine majesty, so I hope in the maturity of your own times it will come up and bear fruit."[2] On the 28th of March 1607, speaking in the House of Commons on the benefits that would follow a union of laws between England and Scotland, he observed that the means to the work would be as excellent as the work itself: "for if both laws shall be united, it is of necessity for preparation and inducement thereunto

[1] See above, Vol. I. p. 339.

[2] Works, vol. vii. p. 316.

that our own laws be reviewed and recompiled: than the which I think there cannot be a work that his Majesty can undertake in these his times of peace, more politic, more honourable, nor more beneficial to his subjects in all ages. . . . . For this continual heaping up of laws without digesting them maketh but a chaos and confusion, and turneth the laws many times to become but snares for the people, as was well said, *Pluet super eos laqueos: non sunt autem pejores laquei quam laquei legum.* And therefore this work I esteem to be indeed a work (rightly to term it) heroical, and that which if I might live to see, I would not desire to live after."[1] On the 28th of July 1608, in a sheet of private memoranda concerning "Policy," we find these:—

"Persuade the King in glory, *aurea condet sæcula.*

"New laws to be compounded and collected: lawgiver *perpetuus princeps.*"[2]

The next day, "the recompiling of the laws of England" is set down in a list of his own "services on foot."[3] And it was probably in pursuance of the design here indicated that he addressed or thought of addressing a letter to the King, of which all we have and all we know is the unfinished draft which follows; and the date must remain altogether uncertain, because such a letter, referring as it does to a subject which was never absent from his thoughts, might have been begun at any time.

May it please your Majesty,[4]

Thinking often, as I ought, of your Majesty's virtue and fortune, I do observe not without admiration that those civil acts of sovereignty which are of the greatest merit, and therefore of truest glory, are by the providence of God manifestly put into your hands, as a chosen vessel to receive from God, and an excellent instrument to work amongst men, the best and noblest things. The highest degree of sovereign honour is to be the founder of a kingdom or estate; for as in the acts of God the creation is more than the conservation, and as amongst men the birth-day is accounted the chiefest of the days of life, so to found a kingdom is more worthy than to augment or to administer the same. And this is an honour that no man can take from your Majesty, that the day of your coming to the crown of England was as the birth-day of the kingdom intire

[1] Vol. III. p. 366. note.
[2] Commentarius, vol. iv. p. 73.
[3] *Ibid.* p. 94.
[4] Gibson's Papers, vol. viii. f. 222. A draft, apparently, though not in Bacon's hand: dictated, probably. No date or docket.

Britain. The next degree of sovereign honour is the plantation of a country or territory, and the reduction of a nation from waste soil and barbarous manners to a civil population. And in this kind also your Majesty hath made a fair and prosperous beginning in your realm of Ireland. The third eminent act of sovereignty is to be a lawgiver; whereof he speaketh,

Pace datâ terris, animum ad civilia vertit
Jura suum, legesque tulit justissimus author.

And another saith, *Ecquid est, quod tam propriè dici potest actum ejus qui togatus in republicâ cum potestate imperioque versatur, quam lex? Quære acta Gracchi, leges Sempronicæ proferentur: quære Syllæ, Corneliæ. Quid? Cneii Pompeii tertius consulatus in quibus actis consistit? Nempe legibus. A Cæsare ipso si quæreres quidnam egisset in urbe et toga, leges multas se respondeat et præclaras tulisse.*

* * * * * *

In the Parliament of 1614, among the Bills of Grace offered to the Houses, was "an act giving authority to certain Commissioners to review the state of penal laws, to the end that such as are obsolete and snaring may be repealed, and such as are fit to continue and concern one matter may be reduced respectively into one clear form of law." It was brought in by Bacon and read a first time on the 2nd of May.[1] Upon the premature dissolution of that Parliament, he urged the King (his position giving him then more opportunities of offering advice) to appoint Commissioners accordingly, who might prepare bills for the next Parliament; to set on foot at once a revision and expurgation of the "Year books," which contained the history of the law for the time past; and at the same time to appoint competent reporters of all legal cases for the time to come.[2] And now on his further rise to the dignity of a Privy Councillor he makes it his first voluntary service to draw attention to the subject once more, entering more particularly into a consideration of the measures to be taken.

Like other of his greater projects for the benefit of mankind, it was well meant and well aimed, rather than successful. But subsequent history, if it shows that his persuasions and endeavours produced little effect in the way of remedy, shows likewise how much that very remedy was wanted, and how much the disease

[1] Vol. V. pp. 15. 41.
[2] See "Memorial touching the Review of Penal Laws and the Amendment of the Common Law," printed in the last Volume, p. 84.

has been aggravated and made more difficult to deal with by the postponement of it. One advantage there is, indeed, which modern law-reformers enjoy over their predecessors in this matter,—a universal feeling that the remedy must be postponed no longer. If the task is heavier than it was in Bacon's time, the forces at our command are greater. Instead of a single councillor to urge, and a single king with an empty exchequer to provide means, we have now all the highest officers of State and Law, with the full support of both houses of Parliament, of the Press, and of the people, recognizing the paramount importance of the work, and seriously bent on getting it done. We may fairly hope, therefore, that in the course of another generation or two the obstructions will be withdrawn or over-ridden, and the work accomplished. Whenever that shall be, the credit will of course go to the man who happens to be most conspicuous among those who are in the field when it is won. But when its history is written, there will remain on record a remarkable testimony to the value of this early contribution of Bacon's to the cause. For when, on the 9th of March, 1826, the late Sir Robert Peel, then Home Secretary, moved for leave to bring in his bill for the consolidation of the laws relating to theft, he asked permission to use this very paper for the preface of his speech, as comprising in a short compass every argument that could be cited in favour of the measure he proposed to introduce, and satisfactorily confuting every objection that could be brought against it. "The lapse of two hundred and fifty years has increased," he said, "the necessity of the measure which Lord Bacon then proposed, but it has produced no argument in favour of the principle, no objection adverse to it, which he did not anticipate."

It was first printed by Dr. Rawley in the Resuscitatio, p. 271; and I have not met with the original manuscript, or any independent copy.

A Proposition to his Majesty by Sir Francis Bacon, Knight, his Majesty's Attorney-General, and one of his Privy Council; touching the Compiling and Amendment of the Laws of England.

Your Majesty, of your favour, having made me Privy-Councillor, and continuing me in the place of your Attorney-General, (which is more than was these hundred years before) I do not understand it to be, that by putting off the dealing in causes such advantage of truth, and avoidance of flattery, and with such

between party and party, I should keep holy-day the more; but that I should dedicate my time to your service with less distraction. Wherefore, in this plentiful accession of time which I have now gained, I take it to be my duty not only to speed your commandments and the business of my place, but to meditate and to excogitate of myself, wherein I may best, by my travels, derive your virtues to the good of your people, and return their thanks and increase of love to you again. And after I had thought of many things, I could find, in my judgment, none more proper for your Majesty as a master, nor for me as a workman, than the reducing and recompiling of the laws of England.

Your Majesty is a King blessed with posterity; and these Kings sort best with acts of perpetuity, when they do not leave them instead of children, but transmit both line and merit to future generations. You are a great master in justice and judicature, and it were pity that the fruit of that virtue should die with you. Your Majesty also reigneth in learned times; the more in regard of your own perfections and patronage of learning; and it hath been the mishap of works of this nature, that the less learned time hath wrought upon the more learned; which now will not be so. As for myself, the law is my profession, to which I am a debtor. Some little helps I may have of other learning, which may give form to matter; and your Majesty hath set me in an eminent place, whereby in a work which must be the work of many I may the better have coadjutors. Therefore not to hold your Majesty with any long preface in that which I conceive to be nothing less than words, I will proceed to the matter: which matter itself nevertheless requireth somewhat briefly to be said, both of the dignity, and likewise of the safety and convenience of this work: and then to go to the main; that is to say, to shew how the work is to be done: which incidently also will best demonstrate that it is no vast nor speculative thing, but a real and feasible. Callisthenes, that followed Alexander's court, and was grown in some displeasure with him, because he could not well brook the Persian adoration, at a supper (which with the Grecians was ever a great part talk) was desired, because he was an eloquent man, to speak of some theme; which he did; and chose for his theme the praise of the Macedonian nation; which though it were but a filling thing to praise men to their faces, yet he did it with

life, as the hearers were so ravished with it that they plucked the roses off from their garlands, and threw them upon him; as the manner of applauses then was. Alexander was not pleased with it, and by way of discountenance said *It was easy to be a good orator in a pleasing theme: But,* (saith he to Callisthenes,) *turn your stile, and tell us now of our faults, that we may have the profit, and not you only the praise.* Which he presently did, with such a force, and so piquantly, that Alexander said, *The goodness of his theme had made him eloquent before; but now it was the malice of his heart that had inspired him.*

1. Sir, I shall not fall into either of those two extremes concerning the laws of England; they commend themselves best to them that understand them; and your Majesty's Chief Justice of your Bench hath in his writings magnified them not without cause. Certainly they are wise, they are just, and moderate laws; they give to God, they give to Cæsar, they give to the subjects, that which appertaineth. It is true, they are as mixt as our language, compounded of British, Roman, Saxon, Danish, Norman customs. And as our language is so much the richer, so the laws are the more complete: neither doth this attribute less to them, than those that would have them to have stood out the same in all mutations; for no tree is so good first set, as by transplanting.

2. As for the second extreme, I have nothing to do with it by way of taxing the laws. I speak only by way of perfiting them, which is easiest in the best things: for that which is far amiss hardly receiveth amendment; but that which hath already, to that more may be given. Besides, what I shall propound is not to the matter of the laws, but to the manner of their registry, expression, and tradition: so that it giveth them rather light than any new nature. This being so, for the dignity of the work I know scarcely where to find the like: for surely that scale and those degrees of sovereign honour are true and rightly marshalled: First the founders of estates; then the lawgivers; then the deliverers and saviours after long calamities; then the fathers of their countries, which are just and prudent princes; and lastly, conquerors; which honour is not to be received amongst the rest, except it be where there is an addition of more country and territory to a better government than that was of the conquered. Of these, in my judgment, your Majesty may with

more truth than flattery be intitled to the first, because of your uniting of Britain and planting Ireland; both which savour of the founder. That which I now propound to you, may adopt you also into the second. Lawgivers have been called *principes perpetui;* because, as bishop Gardiner said in a bad sense that he would be bishop an hundred years after his death, in respect of the long leases he made: so lawgivers are still kings and rulers after their decease, in their laws. But this work, shining so in itself, needs no taper. For the safety and convenience thereof, it is good to consider and to answer those objections or scruples which may arise or be made against this work.

Obj. I. That it is a thing needless; and that the law, as it now is, is in good estate; comparable to any foreign law: and that it is not possible for the wit of man, in respect of the frailty thereof, to provide against the incertainties and evasions, or omissions of law.

Resp. For the comparison with foreign laws, it is in vain to speak of it; for men will never agree about it. Our lawyers will maintain for our municipal laws; civilians, scholars, travellers, will be of the other opinion.

But certain it is, that our laws, as they now stand, are subject to great incertainties, and variety of opinion, delays, and evasions: whereof ensueth,

1. That the multiplicity and length of suits is great.

2. That the contentious person is armed, and the honest subject wearied and oppressed.

3. That the judge is more absolute; who, in doubtful cases, hath a greater stroke and liberty.

4. That the chancery courts are more filled, the remedy of law being often obscure and doubtful.

5. That the ignorant lawyer shroudeth his ignorance of law in that doubts are so frequent and many.

6. That men's assurances of their lands and estates by patents, deeds, wills, are often subject to question, and hollow; and many the like inconveniencies.

It is a good rule and direction (for that all laws, *secundum magis et minus*, do participate of incertainties,) that followeth: Mark, whether the doubts that arise are only in cases not of ordinary experience; or which happen every day.[1] If in the

[1] The Resuscitatio has "only in cases of ordinary experience; or which happen not every day." The "not" seems to have slipped into the wrong place.

first only, impute it to frailty of man's foresight, that cannot reach by law to all cases; but if in the latter, be assured there is a fault in the law. Of this I say no more, but that (to give every man his due) had it not been for Sir Edward Coke's *Reports* (which though they may have errors, and some peremptory and extrajudicial resolutions more than are warranted, yet they contain infinite good decisions and rulings over of cases), the law by this time had been almost like a ship without ballast; for that the cases of modern experience are fled from those that are adjudged and ruled in former time.

But the necessity of this work is yet greater in the statute law. For first, there are a number of ensnaring penal laws, which lie[1] upon the subject; and if in bad times they should be awaked and put in execution, would grind them to powder.

There is a learned civilian that expoundeth the curse of the prophet, *Pluet super eos laqueos*, of multitude of penal laws, which are worse than the showers of hail or tempest upon cattle, for they fall upon men.

There are some penal laws fit to be retained, but their penalty too great; and it is ever a rule, that any over-great penalty (besides the acerbity of it) deads the execution of the law.

There is a further inconvenience, of penal laws obsolete and out of use; for that it brings a gangrene, neglect, and habit of disobedience upon other wholesome laws that are fit to be continued in practice and execution; so that our laws endure the torment of Mezentius:

The living die in the arms of the dead.

Lastly, there is such an accumulation of statutes concerning one matter, and they so cross and intricate, as the certainty of law is lost in the heap; as your Majesty had experience last day upon the point Whether the incendiary of Newmarket should have the benefit of his clergy.

Obj. II. That it is a great innovation; and innovations are dangerous beyond foresight.

Resp. All purgings and medicines, either in the civil or natural body, are innovations; so as that argument is a common-place against all noble reformations. But the troth is, that this work ought not to be termed or held for any innovation in the sus-

[1] "lay" in Resuse.

pected sense. For those are the innovations which are quarrelled and spoken against, that concern the consciences, estates, and fortunes of particular persons: but this of general ordinance pricketh not particulars, but passeth *sine strepitu*. Besides, it is on the favourable part; for it easeth, it presseth not: and lastly, it is rather matter of order and explanation than of alteration. Neither is this without precedent in former governments.

The Romans, by their Decemvirs, did make their Twelve Tables; but that was indeed a new enacting or constituting of laws, not a registring or recompiling; and they were made out of the laws of the Grecians, not out of their own customs.

In Athens they had *Sexviri*, which were standing commissioners to watch and to discern what laws waxed unproper for the time; and what new law did, in any branch, cross a former law, and so *ex officio* propounded their repeals.

King Lewis XI. of France, had it in his intention to have made one perfite and uniform law, out of the civil law Roman, and the provincial customs of France.

Justinian the Emperor, by commissions directed to divers persons learned in the laws, reduced the Roman laws from vastness of volume, and a labyrinth of incertainties, unto that course of the civil law which is now in use. I find here at home of late years, that King Henry VIII. in the twenty-seventh of his reign, was authorised by Parliament to nominate thirty-two commissioners, part ecclesiastical, part temporal, to purge the canon law, and to make it agreeable to the law of God, and the law of the realm; and the same was revived in the fourth year of Edward VI. though neither took effect.

For the laws of Lycurgus, Solon, Minos, and others of ancient time, they are not the worse because grammar scholars speak of them. But things too ancient wax children with us again.

Edgar, the Saxon King, collected the laws of this kingdom, and gave them the strength of a faggot bound, which formerly were dispersed.

The statutes of King Edward the First were fundamental. But I doubt I err in producing so many examples: for, as Cicero saith to Cæsar, so may I say to your Majesty; *Nil vulgare te dignum videri possit.*

Obj. III. In this purging of the course of the common laws and statutes, much good may be taken away.

Resp. In all purging, some good humours may pass away; but that is largely recompensed by lightening the body of much bad.

Obj. IV. Labour were better bestowed in bringing the common laws of England to a text law, as the statutes are, and setting both of them down in method and by titles.

Resp. It is too long a business to debate whether *lex scripta aut non scripta,* a text law or customs well registred, with received and approved grounds and maxims, and acts and resolutions judicial from time to time duly entered and reported, be the better form of declaring and authorising laws. It was the principal reason or oracle of Lycurgus, that none of his laws should be written. Customs are laws written in living tables; and some traditions the Church doth not disauthorise. In all sciences, they are the soundest that keep close to particulars; and sure I am there are more doubts that rise upon our statutes, which are a text law, than upon the common law, which is no text law. But howsoever that question be determined, I dare not advise to cast the law into a new mould. The work which I propound tendeth to proyning and grafting the law, and not to ploughing[1] up and planting it again; for such a remove I should hold indeed for a perilous innovation.

Obj. V. It will turn the Judges, counsellors of law, and students of law to school again; and make them to seek, what they shall hold and advise for law; and it will impose a new charge upon all lawyers to furnish themselves with new books of law.

Resp. For the former of these, touching the new labour, it is true it would follow if the law were new moulded into a text law; for then men must be new to begin; and that is one of the reasons for which I disallow that course.

But in the way that I shall now propound, the entire body and substance of law shall remain, only discharged of idle and unprofitable or hurtful matter; and illustrated by order and other helps, towards the better understanding of it, and judgment thereupon.

For the latter, touching the new charge, it is not worthy the speaking of in a matter of so high importance; it mought have been used of the new translation of the Bible, and such like works. Books must follow sciences, and not sciences books.

[1] "plow" in Res.

The work itself; and the way to reduce and recompile the Laws of England.

This work is to be done (to use some[1] few words, which is the language of action and effect,) in this manner.

It consisteth of two parts; the digest or recompiling of the common laws, and that of the statutes.

In the first of these, three things are to be done:

1. The compiling of a book *De antiquitatibus juris.*

2. The reducing or perfecting of the course or corps of the common laws.

3. The composing of certain introductive and auxiliary books touching the study of the laws.

For the first of these. All ancient records in your Tower or elsewhere, containing acts of parliament, letters patents, commissions, and judgments, and the like, are to be searched, perused, and weighed. And out of these are to be selected those that are of most worth and weight; and in order of time, not of titles, (for the more conformity with the Year-books,) to be set down and registred; rarely in *hæc verba;* but summed with judgment, not omitting any material part. These are to be used for reverend precedents, but not for binding authorities.

For the second, which is the main; There is to be made a perfect course of the law *in serie temporis,* or Year-books (as we call them), from Edward the First to this day. In the compiling of this course of law, or Year-books, the points following are to be observed.

First, all cases which are at this day clearly no law, but constantly ruled to the contrary, are to be left out; they do but fill the volumes, and season the wits of students in a contrary sense of law. And so likewise all cases wherein that is solemnly and long debated, whereof there is now no question at all, are to be entered as judgments only, and resolutions, but without the arguments, which are now become but frivolous. Yet for the observation of the deeper sort of lawyers, that they may see how the law hath altered, out of which they may pick sometimes good use, I do advise that upon the first in time of those obsolete cases there were a *memorandum* set, that at that time the law was thus taken, until such a time, *etc.*

Secondly, *Homonymiæ,* (as Justinian calleth them,) that is,

[1] So in Resuscitatio. But I think "some" ought to be struck out.

cases merely of iteration and repetition, are to be purged away: and the cases of identity which are best reported and argued to be retained instead of the rest; the judgments nevertheless to be set down, every one in time as they are, but with a quotation or reference to the case where the point is argued at large: but if the case consist part of repetition, part of new matter, the repetition is only to be omitted.

Thirdly, as to the *Antinomiæ*, cases judged to the contrary, it were too great a trust to refer to the judgment of the composers of this work, to decide the law either way, except there be a current stream of judgments of later times; and then I reckon the contrary cases amongst cases obsolete, of which I have spoken before: Nevertheless this diligence would be used, that such cases of contradiction be specially noted and collected, to the end those doubts that have been so long militant may, either by assembling all the Judges in the Exchequer Chamber, or by Parliament, be put into certainty. For to do it by bringing them in question under feigned parties is to be disliked. *Nil habeat forum ex scena.*

Fourthly, all idle queries, which are but seminaries of doubts and incertainties, are to be left out and omitted, and no queries set down but of great doubts well debated and left undecided for difficulty; but no doubting or upstarting queries; which though they be touched in argument for explanation, yet were better to die than to be put into the books.

Lastly, cases reported with too great prolixity would be drawn into a more compendious report; not in the nature of an abridgment; but tautologies and impertinencies to be cut off. As for misprinting, and insensible reporting, which many times confound the students, that will be *obiter* amended; but more principally, if there be any thing in the report which is not well warranted by the record, that is also to be rectified. The course being thus compiled, then it resteth but for your Majesty to appoint some grave and sound lawyers, with some honourable stipend, to be reporters[1] for the time to come; and then this is settled for all times.

For the auxiliary books that conduce to the study and science

[1] This constitution of Reporters I obtained of the King, after I was Chancellor; and there are two appointed with £100 a year a-piece stipend.

of the law, they are three: Institutions; a treatise *De regulis juris;* and a better book *De verborum significationibus,* or terms of the law. For the Institutions, I know well there be books of introductions (wherewith students begin) of good worth, specially Littleton and Fitzherbert; *Natura brevium;* but they are no ways of the nature of an *Institutions;* the office whereof is to be a key and general preparation to the reading of the course. And principally it ought to have two properties; the one a perspicuous and clear order or method; and the other, an universal latitude or comprehension, that the students may have a little prenotion of every thing, like a model towards a great building. For the treatise *De regulis juris,* I hold it of all other things the most important to the health, as I may term it, and good institutions of any laws: it is indeed like the ballast of a ship, to keep all upright and stable; but I have seen little in this kind, either in our law or other laws, that satisfieth me. The naked rule or maxim doth not the effect. It must be made useful by good differences, ampliations, and limitations, warranted by good authorities; and this not by raising up of quotations and references, but by discourse and deducement in a just tractate. In this I have travelled myself, at the first more cursorily, since with more diligence, and will go on with it, if God and your Majesty will give me leave. And I do assure your Majesty, I am in good hope, that when Sir Edward Coke's Reports and my Rules and Decisions shall come to posterity, there will be (whatsoever is now thought,) question who was the greater lawyer? For the books of the Terms of the Law, there is a poor one; but I wish a diligent one, wherein should be comprised not only the exposition of the terms of law, but of the words of all ancient records and precedents.

For the Abridgments, I could wish, if it were possible, that none mought use them but such as had read the course first; that they might serve for repertories to learned lawyers, and not to make a lawyer in haste: but since that cannot be, I wish there were a good abridgment composed of the two that are extant, and in better order. So much for the Common Law.

Statute Law.

For the reforming and recompiling of the Statute Law, it consisteth of four parts.

1. The first, to discharge the books of those statutes whereas[1] the case by alteration of time is vanished; as Lombard Jews, Gauls half-pence, *etc.* Those may nevertheless remain in the libraries for antiquities, but no reprinting of them. The like of statutes long since expired and clearly repealed; for if the repeal be doubtful, it must be so propounded to the Parliament.

2. The next is, to repeal all statutes which are sleeping and not of use, but yet snaring and in force. In some of those it will perhaps be requisite to substitute some more reasonable law instead of them, agreeable to the time; in others a simple repeal may suffice.

3. The third, that the greviousness of the penalty in many statutes be mitigated, though the ordinance stand.

4. The last is, the reducing of concurrent statutes, heaped one upon another, to one clear and uniform law. Towards this there hath been already, upon my motion and your Majesty's direction, a great deal of good pains taken; my Lord Hobart, myself, Serjeant Finch, Mr. Heneage Finch, Mr. Noye, Mr. Hackwell, and others; whose labours being of a great bulk, it is not fit now to trouble your Majesty with any further particularity therein; only by this you may perceive the work is already advanced: but because this part of the work, which concerneth the Statute Laws, must of necessity come to Parliament, and the houses will best like that which themselves guide, and the persons that themselves employ, the way were to imitate the precedent of the commissioners for the Canon Laws in 27 Hen. VIII, and 4 Edw. VI, and the commissioners for the Union of the two realms, *primo* of your Majesty, and so to have the commissioners named by both houses; but not with a precedent power to conclude, but only to prepare and propound to Parliament.

This is the best way, I conceive, to accomplish this excellent work, of honour to your Majesty's times, and of good to all times; which I submit to your Majesty's better judgment.

2.

Though the regulation of trade, as a matter of what we now call Political Economy, engaged a good deal of Bacon's attention, he does not appear to have anticipated modern science on that subject. His impartial observation and clear common sense warned him of immediate consequences, and taught him to avoid impracticable

[1] So in Res. I think it should be "wherein."

courses; but on the true principles of commercial legislation he had no clearer light than the rest of his contemporaries. To forbid usury, for instance, he saw would be mischievous, as this world goes; because without usury there would be no lending. But he did not venture far enough to perceive that the interest to be paid on money to be lent is as fair and just a subject of bargain as any other, and ought to be as free. If he had thought it possible to make men lend their money without taking interest, he would apparently have thought it a good thing. His objection to the attempt was that it was utopian, not that it was against the sound principles of trading.[1] So also with regard to foreign trade, he saw that indiscreet endeavours to monopolise a manufacture might end in the loss of it; because if the foreigner found it too difficult to procure, he would learn to do without it or to make it for himself. But that it was for the interest of all nations that each should be encouraged to produce whatever it could produce best and at least cost, that all possible facilities, both of export and import, should be given to all alike, and that the conditions of exchange should be left to the parties,—this I think he would not have been prepared to admit. Upon the balance of trade, the value of the precious metals, and the protection of native industry, he appears to have held all the doctrines which were then considered orthodox.

We left the New Company of Merchant Adventurers struggling to win from the Dutch the dyeing and dressing of cloth, as well as the weaving.[2] The plan of operation was very simple. All exportation of cloth undyed and undressed was to be prohibited. Then the Dutch, it was thought, not being able to get the cloth otherwise, would be obliged to take it so; and the profit on the dyeing and dressing would be secured for the native industry. But the Dutch had native industry of their own to care for. They chose to dye and dress for themselves, and refused to buy any which had been dressed and dyed elsewhere. This of course produced distress among the clothworkers in England, and forced the government to consent to a partial relaxation of the prohibition for a time. But time did not make the case easier to deal with. The Dutch, instead of being gradually compelled to take English-*dressed* cloth, began to set up looms of their own and prepare to do without English-*woven* cloth; so that our whole trade with that part of the continent was threatened with extinction. The cloth workers, first of Gloucestershire, then of Worcestershire, and lastly of Wiltshire, all came in with complaints that their business was at a stand; and Bacon was called upon to advise what should be done. Though he had heartily approved of the policy of getting the whole manufacture into English

[1] See his Essay of Usury. [2] See Vol. V. pp. 169-172, 256-259.

hands, if it could be done, and thought the attempt highly patriotic, and had taken much pains to make the best of it, he had never been very confident of success. He evidently doubted the ability of the New Company to make good their promises; and when they obtained leave to export a certain proportion of "whites" for a certain number of years, he foresaw the danger. "Nay, I fear," he said, writing to the King on the 25th of February preceding, "and have long feared, that this feeding of the foreigner may be dangerous; for as we may think to hold up our clothing by vent of whites till we can dye and dress; so they (I mean the Dutch) will think to hold up their manufacture of dyeing and dressing upon our whites, till they can clothe."[1] The prediction hed been verified. "A bounty," says Mr. Gardiner, "was offered for every fresh loom which was set up, and after a few weeks Carleton reported that as he went about the country to examine the progress that had been made, his ears were saluted with the busy sound of the shuttle in all directions."[2] In the present emergency, Bacon does not seem to have had anything better to suggest than an act of authority, wholesome indeed and beneficial in itself according to his ideas, however condemnable according to ours, but promising at best only a temporary relief of the present distress.

This appears to have been the state of the case when the two next letters were written.

A Letter to Sir George Villiers, acknowledging the King's favour in granting some suit of his.[3]

Sir,

I am more and more bound to his Majesty, who I think knowing me to have other ends than ambition, is contented to make me judge of mine own desires.

I am now beating my brains (among many cases[4] of his Majesty's business) touching the redeeming the time in this business of cloth. The great question is how to miss or how to mate the Flemings, how to pass by them or how to pass over them.

In my next letter, I shall alter your stile: but I shall never whilst I breathe alter mine own stile, in being

Your true and devoted servant,

Fr. Bacon.

London,
22nd Aug. 1616.

[1] Vol. V. p. 258. [2] Hist. of England, 1603-1616, vol. ii. p. 302.
[3] Gibson Papers, vol. viii. f. 45. Fair copy in Meautys's hand.
[4] So in MS. "cares" in Res.

TO THE KING.[1]

It may please your most excellent Majesty,

First, from the bottom of my heart I thank the God of all mercy and salvation that he hath preserved you from receiving any hurt by your fall; and I pray his divine Majesty ever to preserve you on horseback and on foot from hurt and fear of hurt.

Now touching the clothing business. For that I perceive the cloth goeth not off as it should, and that Wiltshire is now come in with complaint, as well as Gloucestershire and Worcestershire, so that this gangrene[2] creepeth on; I humbly pray your Majesty to take into your Majesty's princely consideration a remedy for the present stand, which certainly will do the deed; and for anything that I know will be honourable and convenient, though joined with some loss in your Majesty's customs, which I know in a business of this quality, and being but for an *interim* till you may negotiate, your Majesty doth not esteem. And it is this.

That your Majesty by your proclamation do forbid (after fourteen days, giving that time for suiting men's selves) the wearing of any stuff made wholly of silk, without mixture of wool, for the space of six months. So your Majesty shall supply outward vent with inward use, specially for the finer cloths, which are those wherein the stand principally is, and which silk-wearers[3] are likest to buy; and you shall shew a most princely care over thousands of the[4] poor people; and besides, your Majesty shall blow a horn, to let the Flemings know your Majesty will not give over the chace. Again, the winter season coming on is fittest for wearing of cloth; and there is scope enough left for bravery and vanity by lacing and embroidery,[5] so it be upon cloth or stuffs of wool.

I thought it my duty to offer and submit this remedy, amongst others, to your Majesty's great wisdom, because it pleased you to lay the care of this business upon me; and

[1] Stephens's first Collection, p. 179, "from the original." There is a fair copy at Lambeth in Meautys's hand. (Gib. Pap. viii. f. 47). But there are two or three mistakes in it.

[2] "Banquet" in the Lambeth MS.

[3] "Weavers," in the Lambeth MS.

[4] "Your," in the Lambeth MS.

[5] "Leaving an embroidery," in the Lambeth MS.

indeed my care did fly to it before, as it shall always do to any knots and difficulties in your business, wherein hitherto I have been not unfortunate. God ever have you in his most precious custody.

Your Majesty's most faithful
and most bounden servant,
FR. BACON.

Sept. 13, 1616.

The paper which was enclosed in the short letter which follows has not been preserved: and it is therefore of the less consequence to inquire what the proposition was to which it related. I fancy it was some offer from the old company of merchant adventurers, with whom Towerson was connected,[1] and who were certainly still in communication with the Council. But the particulars to be gleaned from this would not be sufficient to identify the proposition, even if one were to light upon it.

TO THE KING UPON TOWERSON'S PROPOSITION ABOUT THE CLOTH BUSINESS.[2]

May it please your excellent Majesty,

Because I have ever found that in business the consideration of persons (who are *instrumenta animata*) is no less weighty than of matters, I humbly pray your Majesty to peruse this inclosed paper, containing a diligence which I have used *in omnem eventum*. If Towerson, as a passionate man, have overcome himself in his opinion, so it is. But if his company make this good, then I am very glad to see in the case wherein we now stand there is this hope left, and your Majesty's honour preserved in the entier. God have your Majesty in his divine protection.

Your Majesty's most devoted,
and most bounden servant,

This is a secret to all men but my Lord Chancellor; and we go on this day with the new company, without discouraging them at all.

September 18, 1616.

[1] See S. P. Dom. James I. Vol. lxxx. no. 105.
[2] Gibson Papers, vol. viii. f. 48. Fair copy in Meautys's hand.

3.

We left Sir Edward Coke at the beginning of the Long Vacation, temporarily suspended from the exercise of his office of Chief Justice, and ordered to review his Reports, to correct anything in them that he might find requiring correction, and to communicate the result privately to the King.

A few days before the beginning of the next term, the King directed the Lord Chancellor and the Attorney General to call upon him for an account of what he had done. On the 2d of October he appeared before them, and the following letter gives their report of what passed.

THE LORD CHANCELLOR AND THE ATTORNEY GENERAL TO THE KING.[1]

It may please your most excellent Majesty,

This morning, according to your Majesty's commandment, we have had my Lord Chief Justice of the King's Bench before us, we being assisted by all your learned counsel, except Serjeant Crew, who was then gone to attend your Majesty. It was delivered unto him, that your Majesty's pleasure was, that we should receive an account from him of the performance of a commandment of your Majesty laid upon him, which was that he should enter into a view and retractation of such novelties and errors and offensive conceits as were dispersed in his Reports; that he had had good time to do it; and we doubted not but he had used good endeavour in it, which we desired now in particular to receive from him.

His speech was, that there were of his Reports eleven books, that contained about five hundred cases: that heretofore in other Reports, as namely those of Mr. Plowden (which he reverenced much) there hath been found nevertheless errors which the wisdom of time had discovered and later judgments controlled; and enumerated to us four cases in Plowden which were erroneous; and thereupon delivered in to us the inclosed paper, wherein your Majesty may perceive that my Lord is an happy man, that there should be no more errors in his five hundred cases than in a few cases of Plowden. Your Majesty may also perceive that your Majesty's direction to my Lord Chancellor and myself, and the travail taken by us and Mr.

[1] Gibson Papers, vol. viii. f. 50. Copy. Docketed 2 Octo. 1616. A copy of my letter to the K's Ma^ty., Lo. Cooke.

Sollicitor in following and performing your direction, was not altogether lost; for that of those three heads which we principally respected, which were the rights and liberties of the church, your prerogative, and the jurisdiction of other your courts, my Lord hath scarcely fallen upon any except it be the Prince's case, which also yet seemeth to stand but upon the grammatical of French and Latin.

My Lord did also [qualify[1]] his promise, which your Majesty shall find in the end of his writing, thus far in a kind of common-place or thesis, that it was sin for a man to go against his own conscience, though erroneous, except his conscience be first informed and satisfied.

The Lord Chancellor in the conclusion signified to my Lord Coke your Majesty's commandment, that until report made and your pleasure thereupon known he shall forbear his sitting at Westminster, &c. not restraining nevertheless any other exercise of his place of Chief Justice in private.

Thus having performed, to the best of our understanding, your royal commandment, we rest ever

Your Majesty's most faithful, and
most bounden servants

This joint letter appears to have been accompanied with another from Bacon either to the King or Villiers, in which he recommended the course to be now taken in the matter. But this has unluckily been lost, and the substance of the advice can only be gathered imperfectly from the King's remarks in answer. A loss much to be regretted; for the question was important and difficult. Up to this point Coke had been dealt with cautiously and prudently. The acts previously selected for censure had been acts of aggression, obstruction, and disturbance. Having been called on to justify them before the Council, and failed, he had been brought to acquiesce (however ungraciously) in an order that they should not be repeated; and so far the wound was healed. The "novelties, errors, and offensive conceits dispersed in his Reports" were more difficult to deal with, being expressions of opinion on points of law, and Coke's opinions in

[1] There is no word between "also" and "his" in the MS. Birch, finding the sentence imperfect, put in "give," without notice; and "my Lord did also give his promise" has been the reading in all editions since. I do not think it can be the right word. I have substituted "qualify,"—not as being probably Bacon's own word, for I think it more probable that several have dropped out,—but as giving what was probably the sense.

such matters being likely to outweigh in popular estimation those of any authority who might undertake to censure them. That erroneous opinions published in a book *might be* a fit subject of censure and punishment would not, I suppose, have been disputed. The offence of Dr. Cowell, which caused such excitement in the House of Commons in 1610, was quite analogous, only that it came from the other side. Dr. Cowell, Regius Professor of Civil Law in the University of Cambridge, having published a law-dictionary—a book professing to set forth the true meaning of all words used in legal writings—was found by the House of Commons in some of his definitions to have expressed or implied opinions inconsistent with the privileges of the House of Commons. Coke, having published reports of a number of cases decided in the courts of law, was found by the King, the Archbishop, and the Lord Chancellor to have set down as law doctrines inconsistent with the rights of the Crown, the Church, and the Courts. Dr. Cowell's dictionary had been, at the instance of the House of Commons, by authority of the King, immediately and peremptorily suppressed. Coke was treated more respectfully. Before any objection was made, opportunity was given him to correct or withdraw anything objectionable. But when he had corrected everything that he found amiss, there still remained many passages to which it was thought that just objection might be taken: and the question was how these were to be dealt with.

From the King's reasons—as reported by Villiers in the following letter—for disliking Bacon's advice, I gather that he had suggested a course similar to that which he had advised in the case of the *Commendams* and the *Præmunire*: a declaration of the whole case before the Council, in the presence probably of the Judges, followed by a formal application for their opinion and advice. Such a proceeding would at any rate have left no room for doubt as to the true grounds upon which the action was taken; and if the advice of the Council had been freely given and duly followed, it might have carried weight enough to bear out the conclusion even in the opinion of the people, and even though it implied that Coke in his own special province was not infallible. Less than this could hardly be expected to outweigh the obvious popular presumption that he was paying the penalty of his virtue. The King however professed to take a more summary course, and directed Villiers to return Bacon the following answer.

To the Right Honourable Sir Francis Bacon, Knt., His Majesty's Attorney General, and of his most honourable Privy Council.[1]

Sir,

I have acquainted his Majesty with my Lord Chancellor's and your report touching my Lord Coke as also with your opinion therein; which his Majesty doth dislike for these three reasons: first because that by this course you propound the process cannot have a beginning till after his Majesty's return, which how long it may last after no man knoweth; he therefore thinketh it too long and uncertain a delay to keep the bench so long void from a Chief Justice. Secondly, although his Majesty did use the Council's advice in dealing with the Chief Justice upon his other misdemeanors, yet he would be loth to lessen his prerogative in making the Council judges whether he should be turned out of his place or no, if the case should so require. Thirdly, for that my Lord Coke hath sought means to kiss his Majesty's hands and withal to acquaint him with some things of great importance to his service, he holdeth it not fit to admit him to his presence, before these points be determined, because that would be a grant of his pardon before he had his trial. And if those things wherewith he is to acquaint his Majesty be of such consequence, it would be dangerous and prejudicial to his Majesty to delay him too long. Notwithstanding, if you shall advise of any other reasons to the contrary, his Majesty would have you with all the speed you can to send them unto him, and in the mean time to keep back his Majesty's letter which is herein sent unto you from my Lord Coke's knowledge, until you receive his Majesty's further direction for your proceeding in his business.

And so I rest,

Your ever assured friend at command,

George Villiers.

Theobalds, the
3rd of October,
1616.

Of the letter from the King himself to the Lord Chancellor and Bacon which went along with this, I have not met with any copy or account; only I gather from the answer which was returned to both letters that it was not acted upon at that time.

To the King.[2]

It may please your most excellent Majesty,

We have considered of the letters which we received from your Majesty, as well that written to us both, as that other

[1] Gibson Papers, vol. viii. f. 51. The original letter. Docketed in Meautys's hand "Octob. 3 1616. My Lo. Villiers to my Mr. upon the K's pleasure for proceeding against my Lo. Chief Justice."

[2] Gibson Papers, vol. viii. f. 52. The original letter, in Bacon's fairest hand; signatures and superscription remaining. Docketed "Lo. Chancellor and Mr. Attorney to his Ma^tie."

written by my Lord Villiers to me the Attorney, which I thought good to acquaint my Lord Chancellor withal; the better to give your Majesty satisfaction. And we most humbly desire your Majesty to think that we are and ever shall be ready to perform and obey your Majesty's directions; towards which the first degree is, to understand them well.

In answer therefore to both the said letters, as well concerning matter as concerning time, we shall in all humbleness offer to your Majesty's wisdom the considerations following:

First, we did conceive, that after my Lord Coke was sequestered from the table and his circuits, when your Majesty laid upon him your commandment for the expurging of his Reports, and commanded also our service to look into them and into other novelties introduced into the government, your Majesty had in this your doing two principal ends:

The one, to see if upon so fair an occasion he would make any expiation of his former faults, and also shew himself sensible of those things in his Reports which he could not but know were the likest to be offensive to your Majesty.

The other to perform *de vero* this right to your crown and succession, and your people also; that those errors and novelties mought not run on and authorize by time, but mought be taken away, whether he consented to it or no.

But we did not conceive your Majesty would have had him charged with those faults of his book, or those other novelties; but only would have had them represented to you for your better information.

Now your Majesty seeth what he hath done, you can better judge of it than we can; if upon this probation, added to former matters, your Majesty think him not fit for your service, we must in all humbleness subscribe to your Majesty, and acknowledge that neither his displacing (considering he holdeth his place but during your will and pleasure) nor the choice of a fit man to be put in his room, are council-table matters, but are to proceed wholly from your Majesty's great wisdom and gracious pleasure. So that in this course, it is but the signification of your pleasure, and the business is at an end as to him; only there remaineth the actual expurgation or animadversions of the books.

But if your Majesty understand it that he shall be charged;

then, as your Majesty best knoweth, justice requireth that he be heard and called to his answer; and then your Majesty will be pleased to consider before whom he shall be charged; whether before the body of your Council (as formerly he was), or some selected commissioners (for we conceive your Majesty will not think it convenient it should be before us two only). Also the manner of his charge is considerable, whether it shall be verbal by your learned counsel (as it was last); or whether, in respect of the multiplicity of matters, he shall not have the collections we have made in writing delivered to him. Also the matter of his charge is likewise considerable, whether any of those points of novelty which by your Majesty's commandment we collected, shall be made part of his charge; or only the faults of his books, and the prohibitions and *habeas corpus*, collected by my Lord of Canterbury. In all which course we foresee length of time, not so much for your learned counsel to be prepared (for that is almost done already), but because himself no doubt will crave time of advice to peruse his own books, and to see whether the collections be true and that he be justly charged, and then to produce his proofs that those things which he shall be charged with were not conceits or singularities of his own, but the acts of court; and other like things, tending to excusation or extenuation; wherein we do not see how the time of divers days, if not of weeks, can be denied him.

Now for time (if this last course of charging him be taken), we may only inform your Majesty thus much, that the absence of a Chief Justice (though it should be for a whole term[1] as it hath been often upon sickness) can be no hindrance to common justice; for the business of the King's Bench may be dispatched by the rest of the Judges, his voice in the Star-Chamber may be supplied by any other Judge that my Lord Chancellor shall call, and the trials by *nisi prius* may be supplied by commission.

But as for those great matters of discovery, we can say nothing more than this, that either they are old or new; if old, he is to blame to have kept them so long; if new, or whatsoever, he may advertise your Majesty of them by letter, or deliver them by word to such councillor as your Majesty will assign.

[1] In the MS. the parenthesis ends here: but I think it must have been meant to include the next clause.

Thus we hope your Majesty will accept of our sincerity, having dealt freely and openly with your Majesty, as becometh us: and when we shall receive your pleasure and direction, we shall execute and obey the same in all things; ending with our prayers for your Majesty, and resting

Your Majesty's most faithful, and
most bounden servants,
T. ELLESMERE CANC.
October 6, 1616. FR. BACON.

4.

While waiting for the King's directions upon the points raised in the foregoing letter, Bacon returned to the consideration of the great cloth question. His last advice had been for the application of a remedy merely temporary and palliative, to relieve the immediate distress. To set the business on a good footing permanently, he thought it necessary to get it out of the hands of the new Company; and the next letter, with its enclosure, sufficiently explains his reasons.

TO THE LORD VISCOUNT VILLIERS.[1]

My very good Lord,

It was my opinion from the beginning that this Company will never overcome the business of the Cloth; and that the impediments are as much or more in the persons, which are *instrumenta animata*, than in the dead business itself.

I have therefore sent unto the King here inclosed my reasons, which I pray your Lordship to shew his Majesty.

The new Company and the old Company are but the sons of Adam to me, and I take myself to have some credit with both, but it is upon fear rather with the old, and upon love rather with the new, and yet with both upon persuasion that I understand the business.

Nevertheless I walk in *viâ regiâ*, which is not absolutely acceptable to either. For the new Company would have all their demands granted, and the old Company would have the King's work given over and deserted.

My opinion is, that the old Company be drawn to succeed into the contract (else the King's honour suffereth), and that

[1] Stephens's first collection, p. 181, from the original. There is a fair copy of this letter at Lambeth, in Meautys's hand, not materially differing. But I take Stephens's copy to be the better authority.

we all draw in one way to effect that. If time, which is the wisest of things, prove the work impossible or inconvenient, which I do not yet believe, I know his Majesty and the State will not suffer them to perish.

I wish what shall be done were done with resolution and speed, and that your Lordship (because it is a gracious business) had thanks of it next the King; and that there were some commission under his Majesty's sign manual to deal with some selected persons of the old Company, and to take their answers and consent under their hands; and that the procuring the commission, and the procuring of their offers to be accepted, were your Lordship's work.

In this treaty my Lord Chancellor must by no means be left out; for he will moderate well, and aimeth at his Majesty's ends.

Mr. Solicitor is not yet returned, but I look for him presently. I rest

Your Lordship's true and most devoted servant,

FR. BACON.

Monday, 14th of October,
at 10 of the clock.

REASONS WHY THE NEW COMPANY IS NOT TO BE TRUSTED AND CONTINUED WITH THE TRADE OF CLOTHS.[1]

First, the Company consists of a number of young men and shop-keepers, which not being bred in the trade, are fearful to meddle with any of the dear and fine cloths, but only meddle with the coarse cloths, which is every man's skill; and besides, having other trades to live upon, they come in the sunshine so long as things go well, and as soon as they meet with any storm or cloud, they leave trade and go back to shop-keeping. Whereas the old Company were beaten traders, and having no other means of living but that trade, were fain to ride out all accidents and difficulties, which (being men of great ability) they were well able to do.

Secondly, These young men being the major part, and having a kind of dependence upon Alderman Cockaine, they carry things by plurality of voices; and yet those few of the old Company which are amongst them do drive almost three parts of the trade; and it is impossible things should go well where one part gives the vote, and the other doth the work; so that the

[1] Stephens's First Collection, p. 182. From the original.

execution of all things lies chiefly upon them that never consented, which is merely *motus violentus*, and cannot last.

Thirdly, The new Company make continually such new springing demands, as the State can never be secure nor trust to them, neither doth it seem that they do much trust themselves.

Fourthly, The present stand of cloth at Blackwell-hall, (which is that that presseth the state most, and is provided for but by a temporary and weak remedy,) is supposed would be presently at an end, upon the revivor of the old; in respect that they are able men and united amongst themselves.*

Fifthly, In these cases *opinio est veritate major*, and the very voice and expectation of revivor of the old Company will comfort the clothiers, and encourage them not to lay down their looms.

Sixthly, The very Flemings themselves, in regard of the pique they have against the new Company, are like to be more pliant and tractable towards his Majesty's ends and desires.

Seventhly, Considering the business hath not gone on well, his Majesty must either lay the fault upon the matter itself, or upon the persons that have managed it; wherein the King shall best acquit his honour, to lay it where it is indeed; that is, upon the carriage and proceedings of the new Company, which have been full of uncertainty and abuse.

Lastly, The subjects of this kingdom generally have an ill taste and conceit of the new Company, and therefore the putting of them down will discharge the State of a great deal of envy.

5.

The next letter refers to one of the monopoly-patents, which became afterwards a matter of great importance and a subject of Parliamentary inquiry. At present it was only a project, and under reference to certain Judges, who were to certify for the King's information whether there was any objection to it in point of law; the question of "conveniency" being at the same time referred to some selected councillors,—Suffolk, Winwood, Lake, with Serjeants Montague and Finch. The ostensible object was to correct abuses and disorders in the trade of innkeeping, by forbidding any one to keep an inn without a licence, and appointing commissioners to see that licences were granted only to fit persons.[1]

[1] For a full account of this patent, see Mr. S. R. Gardiner's paper "On Four Letters from Lord Bacon to Christian IV., King of Denmark:" printed in the Archæologia, vol. xli.

A LETTER TO MY LORD OF BUCKINGHAM, TOUCHING MOMPERSON'S BUSINESS OF INNS.[1] OCT. 18, 1616.

My very good Lord,

We are left a little naked in the business of Inns by the death of Justice Nicholls, and my Lord Chief Baron and Mr. Justice Crooke having been with me do desire the number of three may be fulfilled. I have therefore sent your Lordship a warrant for the King's signature, wherein Justice Winch is put in Justice Nicholls' place. It is also altered at my request in that other point of the former warrant, whereby the certificate was required in writing, which they desire may be by attending his Majesty themselves at his coming; which I do think to be the more convenient and the more usual for Judges. I ever rest

Your Lordship's true and most devoted Servant.

6.

The case of Coke remained in the meantime under consideration. The delay may perhaps be partly accounted for by the influence of Villiers, whose good will he had bespoken by the offer of a wealthy marriage to one of his brothers. But the difficulty and importance of the case was itself cause sufficient for hesitation. What course Ellesmere and Bacon would themselves have recommended it is not easy to make out. Their last joint letter is worded with great caution and an evident intention to decline the responsibility of advising. But there is one thing which I think we may infer with confidence. They did not regard the exceptions taken to Coke's Reports as in themselves frivolous. Having examined and considered and collected the passages in question, they were of opinion that doctrines were implied in them which ought not to remain unquestioned in a book of that authority. How far they were justified in thinking so is a question for lawyers, and it is true that among modern lawyers there has been a very general impression to the contrary. But general impressions are apt to pass from one mouth or pen to another without much consideration, and they would have more weight with me if I could be more sure that they had been founded upon an examination by some competent critic of the particular cases. It is too lightly assumed that because Coke was the greatest lawyer of his time, the soundness of his legal decisions may be taken for granted: for where a man's temper is not judicial, his learning will supply him with reasons for the wrong conclusion as

[1] Additional MSS. vol. 5503, f. 98.

easily as for the right; and the blindest admirer of Coke's gifts will hardly say that he was gifted with a judicial temper.

The King, it seems, was not disposed to trouble himself with the solemn proceeding indicated by Bacon. He was satisfied with the report of his Chancellor, Attorney, and Solicitor, whom he had required to make a collection in writing of the unwarrantable opinions maintained by Coke in his Reports and otherwise; and felt justified in proceeding upon that evidence. Hence the question was never sufficiently investigated, or even explained; and the people were left to make their own guesses at the secret history of the business; which guesses, in the absence of better information, have been adopted by historians and generally accepted. "The world discourses," says Chamberlain, "how he should run so far into the King's displeasure, and will not take those alleged causes for sound payment, but stick not to say that he was too busy in the late business, and dived further into secrets than there was need, and so perhaps might see *nudam sine veste Dianam*."[1] Such comments were natural enough from people who knew nothing about Coke except his reputation for learning and independence, and the part he had publicly taken against the murderers of Overbury. But the whole course of the King's subsequent dealing with him was inconsistent with the supposition that he feared him as the possessor of a dangerous secret: for he took no measures to tie his tongue, and yet he gave him a provocation which might have tempted him to use it. And there is really no reason to go about for an explanation of what happened. To those who know how severely and for how many years Coke had tried the King's patience, the wonder should be that he was borne with so long. When two men, one so irritating and the other so irritable, are coming continually into collision upon a quarrel which each holds it his first duty to maintain—for to assert the just supremacy of the law (as represented by himself) was not a more sacred duty in Coke's eyes than to assert the just prerogative of the Crown was in the King's—and when one of them holds only during the other's pleasure the office which gives him a right to be troublesome, the time must come when the relation will cease to be tolerable. The King had endured it so long that the list of offences had grown large. It is true that, large as it is, the amount seems to us light; because the *object* in each case, even where neither manner nor matter can be altogether defended, was to clip the wings of the Prerogative, which we are accustomed to regard as the enemy of the Constitution. We forget that in the

[1] Letter to Carleton, 6 July 1616; 'Court and Times of James I.' vol. i. p. 417.

King's eyes the Prerogative was itself a part of the Constitution—a part which, as an inheritance to be transmitted, it was his proper business to defend, and of which every attempt to clip its wings was a betrayal. To justify him in removing Coke from his office on this ground, it is not necessary to sympathize with him in his constitutional theory; it is only necessary to believe that he conscientiously held it. The man to whom the law entrusts the power of removing an officer at pleasure, is the man whom the law makes responsible for the consequences of continuing him in his office. If the King thought that Coke was using his place to make mischief, it was his duty to displace him, if he durst.

Another popular comment made at the time, and also reported by Chamberlain, comes much nearer to the truth. "The common speech is, that four P's have overthrown and put him down,—that is Pride, Prohibitions, Præmunire, and Prerogative."[1] And this I think may really be allowed as a fair summary of the charges publicly alleged by the King as the ground of his removal. Our account indeed of the declaration made on the occasion is imperfect; but we have a copy of the collections on which it was founded, and from these the character of the supposed offences may be safely inferred.

Among the manuscripts of Mr. Laughton, of Cambridge, which passed after his death into the hands of Mr. George Paul, there was one entitled "The Lord Chancellor Egerton's observations on the Lord Coke's Reports; taken out of his papers written with his own hand." It does not appear by whom or upon whose authority the title was inserted; but Mr. Paul came to the conclusion that it was probably correct, and printed the entire paper. It fills twenty-two folio pages of black-letter type; and whether or not it be the Chancellor's own composition, there can be little doubt that it is one of the collections alluded to by Bacon, as having been drawn up for this occasion by the King's direction. The questions with which it deals are too technical for me to offer an opinion upon. I could not hope even to state them without making blunders. But the general charge is intelligible enough. He is accused of labouring "as it were purposely" throughout his books to derogate from the rights of the Church, and "to disesteem and weaken the power of the King in the ancient use of his Prerogative"; and that, by setting down as resolutions of the Court what were really only opinions thrown out by the Judges on the sudden, or "by taking occasion (though not offered) to range and expatiate upon bye-matters"—and so "scattering and sowing his own conceits." The cases cited by way of

[1] 14 Nov. 1616.

example are ranged under four principal heads:—cases concerning (1) the rights of the Church; (2) the Prerogative of the King; (3) the power and jurisdiction of Courts and Commissioners; and (4) the interest of the subject. Four or five cases are quoted in illustration of each head. They are succinctly stated in legal phraseology, and followed by short comments explaining the error implied in each case in the report. The errors pointed out are thirty in all, but they are given only "as a taste"; and were drawn up not with a view to a judicial proceeding against Coke, which the collectors evidently did not contemplate, nor in the hope of extracting a confession of error from himself, but only for the King's information, as bearing upon the question of his fitness for the place he held, and as suggesting the expediency of a revision by authority of his book of Reports. It seems doubtful whether Bacon expected them to be referred to Coke at all; but the King, who was always ready to hear what a man had to say, having already given him the opportunity of discovering and correcting his errors without a prompter, (which was the handsomest way,) and finding that he had passed without notice the points which seemed most objectionable, thought it right before proceeding further to have his attention particularly drawn to them. Accordingly, on the 17th of October, he was called again before the Lord Chancellor and the learned Counsel, and informed that the King "out of his gracious favour was pleased that his memory should be refreshed; and that he should be put in mind of some passages dispersed in his books, which his Majesty being made acquainted with did as yet distaste, until he heard his explanation and judgment concerning the same. And that out of many some few should be selected, and that at this time he should not be pressed with more; and those few not to be the special and principal points of the cases which were judged, but things delivered by discourse, and as it were by expatiation, which might have been spared and forborne without prejudice to the judgment in the principal cases."[1] The selection was made by Bacon and Yelverton, who chose five. Of which the first was thought to imply a denial of the power of the Commissioners of Sewers to tax a town for the repair of the sea-banks; the second, a denial of the power of the Crown to grant a licence of sole importation, *non obstante* the statute; the third, a denial of the power of the High Commission, the Provincial Councils, the Admiralty, the Court of Requests, and even the Council Table itself, to "imprison fine, or amerce"; the fourth to assert the power of the Common Law to control Acts of Parliament, and judge them

[1] Ellesmere to the King, 22 Oct. 1616.

void, as against common right and reason; the fifth, to give a degree of authority to the King's Bench which would make it "all-sufficient in itself to manage the state," making the authority of the King, the Council, and the Star Chamber superfluous, and giving it "a superintendency over the government itself, and to judge wherein any of them do misgovern."

The passages in his Reports supposed to contain these things being laid before him, he undertook to explain them all "in such sort that no shadow should remain against his Majesty' prerogative," and having received copies of the words, took them home, and on the 21st of October returned his "humble and direct answer" in each case.[1]

If the movement was meant for an offensive one, it was a failure. But if it was meant in good faith as a precaution—a precaution which ought never in any case to be omitted, that of hearing the explanation before pronouncing the censure—and so I think it was—it answered its purpose very well, and the result was in one way satisfactory. I do not suppose indeed that it satisfied either Ellesmere or Bacon that the passages in question did not really imply and were not meant to imply the opinions which they had found in them; but it extracted from Coke a distinct disavowal of those opinions. In every case but one he denied that his words either did imply or were meant to imply any such thing. He was still of opinion that the Act did not authorize the Commissioners of Sewers to raise money even in a sudden emergency "by taxation of an entire sum in gross upon a town." But he fully admitted the right of the King to grant licences of sole importation, *non obstante* the statute. He declared that his assertion that "some Courts cannot imprison," etc. applied only to the inferior Ecclesiastical Courts; that his assertion of the power of the Common Law to control Acts of Parliament consisted only in a reference to cases in the books where Acts of Parliament had in fact been adjudged void by the common law,—cases which had been cited in the argument and which he had found to be truly avouched; and lastly that where he said that the King's Bench had authority to correct "misgovernment," he meant only the misgovernment of inferior magistrates, and was willing to have those words inserted.

Though the disavowal of an opinion made by Coke in such circumstances did not perhaps afford a very strong assurance that he would not be found fighting for it another time, it was a caution against laying too much stress upon the supposed heresies of his book of

[1] Printed by Birch from copies by R. Stephens. Vol vi. (trade edition) p. 397.

Reports. But the strength of the case did not lie there. The "expatiations" in his Reports were but collateral and confirmatory evidences—the flash and outbreak of the spirit of opposition in which he had been acting ever since he became a Judge. The solid ground of complaint against him was that he had habitually used the authority of his office to interfere with the action of the government in its other departments. When the best horse in the team cannot be persuaded to pull with the others, the coach will go better without him. Those who sympathize most entirely with Coke in all his conflicts will hardly maintain that *in the way the government was going* he was not a danger and a hindrance. And whatever *we* may think now, there is no doubt that the King and his advisers thought that the way they were going was the right one. The true justification of the proceeding from their point of view is contained in another paper, entitled "Innovations introduced into the Laws and Government:" of which there is a copy at Lambeth. It bears no date, but appears to have been drawn up after the promulgation of the King's decree in the *Præmunire* case,—therefore after the 18th of July. The heads are set out on one side of the page, mostly in the hand of a secretary. The comments are inserted in the half-margin opposite, in Bacon's hand. The title also, and the numbers (which are directions for setting out the heads in a different order) are Bacon's. There can be no doubt therefore as to the authenticity of the paper, and not much doubt that it was a draft of that which went to the King. The statements in it were, I suppose, matters of notoriety: the points in dispute having been discussed at Council or in the Star Chamber, or embodied in orders of the Court.

INNOVATIONS INTRODUCED INTO THE LAWS AND GOVERNMENT.[1]

1. The Ecclesiastical Commission.	IN this he prevailed, and the commission was pared, and namely the point of alimony left out, whereby wives are left wholly to the tyranny of their husbands. This point, and some others, may require a review, and is fit to be restored to the commission.
2. Against the Provincial Councils.	In this he prevailed in such sort, as the Presidents are continually suitors for the enlargement of the instructions, sometimes in one point, sometimes in another,

[1] Gibson Papers, vol. viii. f. 243.

and the jurisdictions grow into contempt, and more would, if the Lord Chancellor did not strengthen them by injunctions, where they exceed not their instructions.

3. Against the Star-chamber for levying damages.[1]

In this he was overruled by the sentence of the court; but he bent all his strength and wits to have prevailed; and so did the other Judges by long and laborious arguments: and if they had prevailed, the authority of the court had been overthrown. But the plurality of the court took more regard to their own precedents, than to the Judges' opinion.

4. Against the Admiralty.

In this he prevaileth, for prohibitions fly continually; and many times are cause of long suits, to the discontent of foreign ambassadors, and the King's dishonour and trouble by their remonstrances.

5. Against the Court of the Duchy of Lancaster prohibitions go; and the like may do to the court of wards and exchequer-chamber.

This is new, and would be forthwith restrained, and the others settled.

6. Against the Court of Requests.

In this he prevaileth; and this but lately brought in question.

7. Against the Chancery for decrees after judgment.

In this his Majesty hath made an establishment[2]: and he hath not prevailed, but made a great noise and trouble.

8. Præmunire for suits in the Chancery.

This his Majesty hath also established,[2] being a strange attempt to make the Chancellor sit under a hatchet, instead of the King's arms.

[1] In Trin. Term 10 Jac. I. Sir Thomas and Richard Brereton and others had been fined £3000 for fraud with regard to a will, and committed to the Fleet for not paying it. The question was whether the Star-Chamber had power to levy the damages and costs upon their lands and goods. A day was appointed for hearing precedents and reasons for the jurisdiction of the Court, which Bacon argued for.—See Harl. MSS. 1330, f. 16.

[2] See Decree of July 18, 1616. Vol. V. p. 385.

9. Disputed in the Common Pleas, whether that court may grant a prohibition to stay suits in the Chancery, and time given to search for precedents.

This was but a bravery, and dieth of itself, especially the authority of the Chancery by his Majesty's late proceedings being so well established.

10. Against the new boroughs in Ireland.

This in good time was overruled by the voice of eight judges of ten, after they had heard your attorney. And had it prevailed, it had overthrown the parliament of Ireland, which would have been imputed to a fear in this state to have proceeded, and so his Majesty's authority and reputation lost in that kingdom.

11. Against the writs *Dom. Rege inconsulto.*[1]

This is yet *sub judice:* but if it should prevail, it maketh the Judges absolute over all patents of the King's, be they of power and profit, contrary to the ancient and ever continued law of the crown: which doth call those causes before the King himself, as he is represented in Chancery.

12. Against contribution, that it was not lawful neither to levy it, nor to move for it.[2]

In this he prevailed, and gave opinion, that the King by his great seal could not so much as move any his subjects for benevolence. But this he retracted after in the Star-chamber; but it marred the benevolence in the mean time.

13. Peacham's case.[3]

In this, for as much as in him was, and in the court of King's Bench, he prevailed, though it was holpen by the good service of others. But the opinion which he then held amounted in effect to this, that no words of scandal or de-

[1] See Act of Council, 6 June, 1616. Vol. V. p. 357. [2] See Vol. V. p. 83.
[3] Ibid. p. 120.

famation, importing that the King was utterly unable or unworthy to govern, were treason, except they disabled his title, etc.

14. Owen's case.

In this we prevailed with him to give opinion it was treason: but then it was upon a conceit of his own, that was no less dangerous than if he had given his opinion against the King: for he proclaimed the King excommunicate in respect of the anniversary bulls of *Cœna Domini*, which was to expose his person to the fury of any jesuited conspirator.[1]

15. The value of benefices not to be according to the tax in the King's book of taxes.

By this the intent of the statute of 21 Henry VIII. is frustrated; for there is no benefice of so small an improved value as 8^{li}. by that kind of rating. For this the Judges may be assembled in the exchequer chamber for a conference.

16. Suits for legacies ought to be in their proper dioceses, and not in the Prerogative Court; although the will be proved in the Prerogative Court upon *bona notabilia* in several dioceses, commendams, etc.

The practice hath gone against this. And it is fit the suit be where the probate is. And this served but to put a pique between the Archbishops' courts and the Bishops' courts. This may be again propounded upon a conference of the Judges.

17. Homicide beyond the seas may be tried and judged in England, by a new construction of the Statute 13, H. 4.

This was a mere fancy of his own, by mistaking the construction of a statute never thought of before; and may be thought a device to bring in a constable of England. But this hath since reverted upon him.

[1] See Vol. V. p. 119.

These then were the grounds upon which it was urged that Coke was not the right man for his present place. According to modern ideas, his defects both of temper and judgment, as well in the getting up as in the trial of criminal cases, would have formed a better reason; but they would have not been thought so then. Such as they were, the King made up his mind that they were sufficient, and on the 10th of November declared to the Council his resolution to remove him from the Bench.[1] Of what he said on the occasion I have not met with any account full enough to explain the precise grounds on which he put it; but all reports agree that he used him with respect. He had already, on hearing that he had been treated with discourtesy by "the Lord Chancellor's men," sent word "that he would have him well used;" and it had then been hoped by his admirers that things were taking a turn in his favour. "The Attorney" (says Chamberlain, 26 October) "is thought to be come about, as well for that he ever used him with more respect than the rest, as for divers speeches he gives out in his favour,—as that a man of his learning and parts is not every day found nor so soon made as marred." But whatever his faults were, they were not of a kind to justify disrespectful treatment from anybody; and the King when he informed the Council of his resolution to remove him, "yet gave him," says Chamberlain, "this character, that he thought him no way corrupt, but a good justicer; with so many other good words, as if he meant to hang him with a silken halter." It is rather strange that more curiosity should not have been felt as to the reasons which the King gave for such a measure. But this is all that Chamberlain knew, or all that he cared to tell Carleton, about his speech; nor is there any fuller report, so far as I know, in existence. There was found however among Bacon's papers a rough draft, entitled "Remembrances of his Majesty's declarative touching my Lord Coke;" which—whether it be a note of what the King said, or (as I rather suppose) a sketch of what Bacon wished him to say—may be probably taken as containing, so far as it goes, the substantial grounds of the proceeding; which seems to me perfectly intelligible without supposing any mystery behind. The paper is in Bacon's own hand, and what we have of it—for there is but one sheet and I think there must have been more—runs thus.

REMEMBRANCES OF HIS MAJESTY'S DECLARATIVE TOUCHING THE LORD COKE.[2]

That although the discharging and removing of his Majesty's

[1] Camden. Annalium apparatus.
[2] Gibson Papers, vol. viii. f. 254. Draft in Bacon's hand. No date or docket.

officers and servants, as well as the choice and advancement of men to place, be no council-table matters, but belong to his Majesty's princely will and secret judgment; yet his Majesty will do his Council this honour, that in his resolutions even of that kind, his Council shall know them first before others, and shall know them accompanied with their causes, making as it were a private manifeste or revealing of himself to them without parables.

Then to have the report of the Lords touching the business of the Lord Coke, and the last order of the Council read.

That done, his Majesty further to declare, that he might, upon the same three grounds in the order mentioned, of deceit, contempt, and slander of his government, very justly have proceeded then, not only to have put him from his place of Chief Justice, but to have brought him in question in the Star-chamber, (which would have been his utter overthrow,) but that his Majesty was pleased for that time only to put him off from the council-table and from the public exercise of his place of Chief Justice, and to take further time to deliberate.

That in his Majesty's deliberation (besides the present occasion) he had in some things looked back to the Lord Coke's former carriage, and in some things looked forward, to make some further trial of him.

That for things passed, his Majesty had noted in him a perpetual turbulent carriage, first towards the liberties of his church and the state ecclesiastical; then towards his prerogative royal, and the branches thereof; and likewise towards all the settled jurisdictions of his other courts, the High Commission, the Star-Chamber, the Chancery, the Provincial Councils, the Admiralty, the Duchy, the Court of Requests, the Commission of Sewers, the new boroughs of Ireland; in all which he hath raised troubles and new questions; and lastly, in that which might concern the safety of his royal person, by his exposition of the laws in case of high treason.

That besides the actions themselves, his Majesty in his princely wisdom hath made two special observations of him. The one, that he having in his nature not one part of those things which are popular in men, being neither liberal, nor affable, nor magnificent, he hath made himself popular by design only, in pulling down government. The other, that whereas

his Majesty might have expected a change in him, when he made him his own by taking him to be of his Council, it made no change at all but to the worse, he holding on all his former behaviour, and running separate courses from the rest of his Council; and rather busying himself in casting fears before his Council concerning what they could not do, than joining his advice what they should do.

That his Majesty, desirous yet to make a further trial of him, had given him the summer's vacation to reform his Reports, wherein there be many dangerous conceits of his own uttered for law, to the prejudice of his crown, parliament, and subjects; and to see whether by this he would in any part redeem his fault; but that his Majesty hath failed of the redemption he desired, but hath met with another kind of redemption from him, which he little expected. For as to his Reports, after three months time and consideration, he had offered his Majesty only five animadversions,[1] being rather a scorn than a satisfaction to his Majesty; whereof one was that in the Prince's case he had found out the French statute, which was *filz aisné*, whereas the Latin was *primogenitus*; and so the Prince is Duke of Cornwall in French, and not Duke of Cornwall in Latin. And another was, that he had set Montagu to be Chief Justice in Henry VIII.'s time, when it should have been in Edward VI.'s, and such other stuff: not falling upon any of those things which he could not but know were offensive.

That hereupon his Majesty thought good to refresh his memory, and out of many cases, which his Majesty caused to be collected, to require his answer to five, being all such as were but expatiations of his own, and no judgments; whereunto he returned such an answer, as did either justify himself, or elude the matter, so as his Majesty seeth plainly *antiquum obtinet*.

* * * * * *

The last words come quite to the bottom of the sheet; and it seems probable that the manuscript was continued on another which has been lost, so we cannot know in what terms Bacon would have ended the declaration. But the conclusion would no doubt have been a direction for the preparation of a *supersedeas*; which he was in fact ordered to draw up forthwith.

[1] The words "not one of them falling upon those things, which his M. did apprehend" followed here, but are struck out.

To the King.[1]

May it please your excellent Majesty,

I send your Majesty a form of discharge for my Lord Coke from his place of Chief Justice of your Bench.

I send also a warrant to the Lord Chancellor for making forth a writ for a new Chief Justice, leaving a blank for the name to be supplied by your Ma. presence;[2] for I never received your Majesty's express pleasure in that.

If your Majesty resolve of Montagu (as I conceive and wish), it is very material, as these times are, that your Majesty have some care that the Recorder succeeding be a temperate and discreet man, and assured to your Majesty's service. If your Majesty without too much harshness can continue the place within your own servants, it is best: if not, the man upon whom the City's choice is like to fall, which is Coventry, I hold doubtful for your service; not but that he is a well learned and an honest man, but he hath been (as it were) bred by my Lord Coke and seasoned in his ways.

God preserve your Majesty.

Your Majesty's most humble and
most bounden servant,
Fr. Bacon.

I send not these things which concern my Lord Coke by my Lord Villiers, for such reason as your Majesty may conceive.

November 13th, at noon [1616.][3]

It now remained only to set at rest the doubts which had been raised on the Reports. In his declaration to the Council the King, it seems, had given directions for a commission to review them; and a warrant to certain Judges for that purpose was drawn up by Bacon, and ready for his signature by the 21st of November. And here we may leave Coke for a while to himself. We shall meet him again before long in a new occupation, if not in a new character: but for the present he retires to his daughter Sadler's, and applies himself to win the favour of the Favourite.

[1] Gibson Papers, vol. viii. f. 279. Copy in Meautys's hand.

[2] So read by Birch. But the word in the MS. is doubtful. I think it must be "to be supplied by your Majesty presently."

[3] The year-date is not in the MS. But it is given in Stephens's catalogue.

CHAPTER III.

A.D. 1616-17. NOVEMBER-MARCH. ÆTAT. 56.

1.

BACON'S correspondence during the remainder of this year deals with many matters, but is for the most part intelligible enough without any commentary.

Momperson's patent for Inns (which became afterwards a great grievance, owing to abuse of the powers which it conferred) was still a project under consideration; referred in ordinary course to the law officers and selected members of the Council, that they might report whether it were open to any objection in law or policy; and shown to be a thing requiring caution chiefly by Bacon's anxiety that it should pass other judgments besides his own.

The murder of Sir John Tyndall, the suicide of his murderer, and the measures taken by the King and Bacon to satisfy justice and make the truth of the case known, are sufficiently explained in the letters which treat of them.

The "tie" to be taken of the new Lord Chief Justice—alluded to at the end of the letter of November 17—relates, I suppose, to "Roper's place," of which we have already heard something—a valuable patent office, the reversion of which had been granted to two lawyers, Heath and Whitelocke, under covenant to pay the proceeds, *minus* one twelfth, to the Earl of Somerset.[1] Somerset's interest in it being now forfeited by his attainder, Villiers (to whom it was to be transferred) wished for some reason—probably neither better nor worse than that of serving a friend—to substitute for Whitelocke, whose appointment had been confirmed by Coke, one Shute, a dependent of his own. Coke, it was apprehended, might have made a difficulty about this; and it was thought expedient to

[1] See above, Vol. V. p. 227.

ascertain beforehand that the new Chief Justice was willing, upon the surrender of his patent by Whitelocke, to sanction the arrangement.

With these explanations the following letters will be well enough understood.

To the Lord Viscount Villiers.[1]

My very good Lord,

Now that the King hath received my opinion, with the Judges' opinion unto whom it was referred, touching the proposition for Inns in point of law; it resteth that it be moulded and carried in that sort, as it may pass with best contentment and conveniency. Wherein I that ever love good company, as I was joined with others in the legal point, so I desire not to be alone in the direction touching the conveniency. And therefore I send your Lordship a form of warrant for the King's signature, whereby the framing of the business and that which belongeth to it may be referred to myself with Serjeant Montague and Serjeant Finch; and though Montague should change his place, that alteration hurteth not the business, but rather helpeth it. And because the inquiry and survey touching Inns will require much attendance and charge, and the making of the licences, I shall think fit (when that question cometh to me) to be[2] to the Justice of Assize, and not to those that follow this business: therefore his Majesty may be pleased to consider what proportion or dividend shall be allotted to Mr. Mompesson, and those that shall follow it at their own charge, which useth in like cases to be a fifth. So I ever rest

Your Lordship's true and most devoted servant,

Fr. Bacon.

Nov. 13, 1616.

To the Lord Viscount Villiers.[3]

My very good Lord,

I think his Majesty was not only well advised, but well inspired, to give order for this same wicked child of Cain, Ber-

[1] Stephens's first collection, p. 184. From the original. I have not met with any manuscript of this or the next letter.

[2] "Here," says Stephens in his margin, "the word (referred) or other of the like nature is omitted."

[3] Stephens's first collection, p. 186. From the original.

tram, to be examined before he was further proceeded with. And I for my part, before I had received his Majesty's pleasure by my Lord Chamberlain, went thus far; that I had appointed him to be further examined, and also had taken order with Mr. Solicitor that he should be provided to make some declaration at his trial, in some solemn fashion, and not to let such a strange murder pass as if it had been but a horsestealing.

But upon his Majesty's pleasure signified, I forthwith caused the trial to be staid, and examined the party according to his Majesty's questions; and also sent for the principal counsel in the cause, whereupon Sir John Tyndal's report was grounded, to discern the justice or iniquity of the said report, as his Majesty likewise commanded.

I send therefore the case of Bertram truly stated and collected, and the examination taken before myself and Mr. Solicitor; whereby it will appear to his Majesty that Sir John Tyndal (as to this cause) is a kind of a martyr; for if ever he made a just report in his life, this was it.

But the event since all this is, that this Bertram, being as it seemeth indurate or in despair, hath hanged himself in prison: of which accident, as I am sorry, because he is taken from example and public justice, so yet I would not for any thing it had been before his examination; so that there may be otherwise some occasion taken, either by some declaration in the King's Bench upon the return of the coroner's inquest, or by some printed book of the fact, or by some other means (whereof I purpose to advise with my Lord Chancellor), to have both his Majesty's royal care, and the truth of the fact, with the circumstances, manifested and published.

For the taking of a tie of my Lord Chief Justice before he was placed, it was done before your letter came; and on Tuesday Heath and Shute shall be admitted and all perfected.

My Lord Chancellor purposeth to be at the Hall to-morrow, to give my Lord Chief Justice his oath; I pray God it hurt him not this cold weather. God ever prosper you.

Your true and most devoted servant,

FR. BACON.

Sunday night, the 17th of Novemb., 1616.

The Case of John Bartram.[1]

Leonard Chamberlayne died intestate without issue, and left a sister married to Bartram, and a niece afterwards married to Sir George Simeon.

The niece obtained letters of administration, and did administer; but afterwards, upon appeal, Bartram, in the right of his wife (that was the sister) obtained the former administration to be repealed, and new letters of administration to be committed to Bartram and his wife, because the sister was nearer of kin than the niece.

Thereupon Bartram brings his bill in Chancery against the first administratrix, to discover the true state of the intestate, and to have it set over unto him, being the rightful administrator; and this cause coming to hearing, it did appear that there was a debt of £200 owing by one Harris to the intestate; whereupon it was decreed that the debt of Harris *by bond* should be set over to Bartram, and likewise that all other moneys, debts, and bonds should be assigned over to him.

In the penning of this decree there was an error or slip; for it was penned that a debt by Harris *by a bond* of £200 should be set over, whereas the proofs went plainly that it was but £200 *in toto* upon divers specialties and writings.

Upon this pinch and advantage, Bartram moved still that the bond of £200 should be brought in, and at last the defendants alledging that there was no such bond, the court ordered that the money itself, viz. £200, should be brought in; which was done accordingly, and soon after by order of the court it was paid over to Bartram.

When Bartram had this £200 in his purse, he would needs surmise that there was another £200 due by Harris upon account, besides the £200 due by one singular bond, and still pressed the words of the decree, which mentions *a bond*, and thereupon got his adversary Sir George Simeon committed.

Afterward it was moved upon Simeon's part, that there was only one debt of £200, and that the decree was mistaken in the penning of it, and so must needs be understood, because the decree must be upon the proofs; and all the proofs went but

[1] Birch MSS. 4259. An old copy, but not in Bacon's hand.

upon the £200 *in toto*, and not upon any particular bond; whereupon my Lord Chancellor referred the consideration of the proofs, and the comparing of them with the decree, to Sir John Tyndal and Doctor Amye.

They reported (which was the killing report) that upon the proofs there was but one £200 in all, and that it had been eagerly followed by Bartram, and that Simeon had suffered by error and mistaking, and that it were time he were released (which was a most just and true report), and yet it concluded (as is used in such cases) that they referred it to the better judgment of the court; and the court upon the reading of that report gave order that the plaintiff Bartram should show cause by a day why Simeon should not be enlarged, and the plaintiff Bartram dismissed.

And before the day prefixed to show cause, Bertram pistolled Sir John Tyndal.

To my Lord of Buckingham, touching Momperson's Business. the Maltsters, etc.[1]

My very good Lord,

I am much troubled in mind, for that I hear you are not perfectly well, without whose health I cannot joy, and without whose life I desire not to be. I hear nothing from Mr. Momperson, save that some tell me he is knighted, which I am glad of, because he may the better fight with the Bull and the Bear, and the Saracen's heads, and such fearful creatures.

For Sir Robert Killigrewe's suit of enrollment of apprentices, I doubt we must part it; but yet I suppose it may be left valuable.

Your office is despatched, and your books in effect. I have given his Majesty an account of those things wherein I have received his pleasure from your Lordship by this letter which I send open.[2]

Good my Lord, once again have care of your health; and learn what Cardanus saith, that more men die of cold after exercise than are slain in the wars. God ever keep you.

Your Lordship's true and much devoted Servant.

Nov. 21, 1616.

[1] Additional MSS. 5503. f. 98. [2] See p. 105.

2.

We are familiar with Bacon in the Star-Chamber as counsel prosecuting; we are now to see him as one of the judges giving sentence. A case of provocation to duel was coming before the Court; a case not anyway interesting in itself, for it arose out of a quarrel of old date, vulgar, stupid, and disreputable in the last degree, without a feature in it either tragic or touching or entertaining, and in which both parties behaved so ill that it is impossible to feel any sympathy with either. But as one of them was a gentleman and the other a nobleman, it was a case convenient enough for example, and gave a conspicuous opportunity for enforcing those measures for the repression of duelling which the King had threatened three years before.

Gervase Markham, Esquire, by rank a gentleman and by profession a soldier, had been invited by Lord Darcy of the North to meet him at a hunting-party at Sir Gervase Clifton's. When they were in the field, a follower of Lord Darcy's, named Beckwith, "wished Markham not to ride too near one of the hounds." The request, or the manner of it, affronted him; and he gave an answer which implied that if the hound's tail were off it would be no matter. This again affronted Beckwith, who appears to have had an interest in the dog, and replied in effect that the dog's tail was worth more than the horse's head which Markham was riding; adding (a little after) that "though he loved hunting well, he had more mind to fight with him than to hunt." To this Markham answered that "he was a base fellow:" upon which Beckwith "fell to switching of him,"—an operation equivalent, I suppose, to what we now call horse-whipping: and when the saddle slipping round in the struggle left Markham hanging by his foot in the stirrup, he continued to switch him until Lord Darcy came up and released him.

Thus far the quarrel should have been only with Beckwith. But whether it were that he thought Darcy had not interfered soon enough, or did not treat the case gravely enough, or that the state of mind incident to so extremely disagreeable a position disposed him to fall out with whatever was nearest,—so it was that, instead of thanking him for the service, he turned upon him with angry reproaches for having "suffered so base a fellow to use him thus." This again was more than Lord Darcy could endure. "What would you have me do?" said he. "Had not I been [by], he would have beaten you to rags;" adding, according to Markham's version, "that his man Beckwith was as good a gentleman as he."

How the account stood as between Markham and Beckwith, we have not the means of knowing: for that part of the case was not

the subject of inquiry at this time, and we have not Beckwith's version of it. But in one way or other it is clear that Markham's honour had suffered in the fray, and required reparation. Certainly, if he had not behaved very badly, he had been very badly used. His first step in righting himself was unexceptionable. "He sent two of his kinsmen to my Lord to desire my Lord Darcy to explain himself concerning those words, that his man Beckwith would have beaten him to rags, and that his man Beckwith was as good a gentleman as he." Under all the circumstances, the words had been at least ungracious and uncivil, and one might have expected that Lord Darcy would have been anxious to excuse them as spoken in haste or under momentary irritation. But his answer made the matter worse. "He would not give such a fellow as he any other satisfaction than this—that he did not say that his man Beckwith was as good a gentleman as he, but that he was a gentleman as well as he; and that his meaning of "beaten to rags" was this—that he had ever held that a child of five years old, having a sword in his hand, might be revenged of his enemy."

It would not have been reasonable to expect Markham to be satisfied with an answer like this; and if he had laid his case, as it stood here, before a court of honour, it can hardly be doubted that some reparation would have been awarded to him. But the reparation which he devised for himself was a strange one. He wrote a letter, saying that "he knew my Lord was a Peer of the realm, but he had no privilege to abuse any gentleman; and that my Lord Darcy, in saying that his man Beckwith would have beaten him to rags, had lied, and should lie as often as he should say so, and that if he listed to send his boy unto him he would meet him wheresoever he would and make good what he said with his life; and there was a Rowland for his Oliver, and the lie for his indignity." If this letter had been sent to Lord Darcy in the ordinary way, it would have been an ordinary challenge, as justifiable as most challenges; and why he did not send it is not explained, for it is expressly stated that he did not at the time know of the King's proclamation. But it seems that though ready to maintain with his life that Lord Darcy was a liar, he was not prepared to call him a liar to his face: so he contented himself with writing "divers copies" of the letter, and scattering them about in the fields,—addressed and signed, but not sealed.

How and when any of them came into Lord Darcy's hands, I do not find stated. But they had been written and distributed as early as the beginning of 1614, and now in the Autumn of 1616 the case came before the Council. The statement drawn up by Yelverton for the King's information, which was enclosed in the next letter, has

not been preserved; but the particulars which I have given are taken from a note of the legal proceeding,[1] and explain the nature of the question now referred to the King's decision—namely, whether the writing and scattering about of these letters was an offence fit to be brought before the Star-Chamber.

To the King.[2]

It may please your most excellent Majesty,

I send your Majesty, according to your commandment, the warrant for the review of Sir Edward Coke's Reports. I had prepared it before I received your Majesty's pleasure: but I was glad to see it was in your mind, as well as in my hands. In the nomination which your Majesty made of the Judges to whom it should be directed, your Majesty could not name the Lord Chief Justice that now is, because he was not then declared: but you could not leave him out now, without discountenance.

I send your Majesty the state of Lord Darcy's cause in the Star-Chamber, set down by Mr. Solicitor, and mentioned in the letter which your Majesty received from the Lords. I leave all in humbleness to your Majesty's royal judgment: but this is true, that it was the clear opinion of my Lord Chancellor and myself and the two Chief Justices, and others, that it is a cause most fit for the censure of the Court, both for the repressing of duels, and the encouragement of complaints in courts of justice. If your Majesty be pleased it shall go on, there resteth but Wednesday next for the hearing; for the last day of the term is commonly left for orders, though sometimes, upon extraordinary occasion, it hath been set down for the hearing of some great cause.

I send your Majesty also Baron Bromley's report, which your Majesty required; whereby your Majesty may perceive things go not so well in Cumberland (which is the seat of the party your Majesty named to me) as was conceived; and yet if there were land-winds as there be sea-winds to bind men in, I could wish he were a little wind-bound to keep him in the south.

But while your Majesty peruseth the accounts of Judges in

[1] Harl. MSS. 6807, f. 170.
[2] Gibson Papers, vol. viii. f. 280. Fair copy in Meautys's hand.

circuits, your Majesty will give me leave to think of the Judges here in their upper region. And because Tacitus saith well, *opportuni magnis conatibus transitus rerum,* now upon this change (when he that letteth is gone) I shall endeavour to the best of my power and skill that there may be a consent and united mind in your Judges to serve you and strengthen your business. For I am persuaded there cannot be a sacrifice from which there may come up to you a sweeter odour of rest, than this effect whereof I speak.

For this wretched murderer, Bertram, now gone to his place, I have (perceiving your Majesty's good liking of that I propounded) taken order that there shall be a declaration concerning that cause in the King's Bench, by occasion of punishment of the offence of his keeper; and another in Chancery, upon the occasion of moving for an order according to his just and righteous report. And yet withal I have set on work a good pen (and myself will overlook it) for making some little pamphlet fit to fly abroad in the country.

For your Majesty's proclamation touching the wearing of cloth. After I had drawn a form as near as I could to your Majesty's direction, I propounded it to the Lords, my Lord Chancellor being then absent; and after their Lordships' good approbation, and some points by them altered, I obtained leave of them to confer thereupon with my Lord Chancellor and some principal Judges, which I did this afternoon; so as it being now perfited, I shall offer it to the board to-morrow, and so send it to your Majesty.

So humbly craving your Majesty's pardon for troubling you with so long a letter, specially being accompanied with other papers, I ever rest,

Your Majesty's most humble, and
most bounden servant,
FR. BACON.

This 21 of November, at x o'clock at night.

The opinion of the Council on Lord Darcy's case being approved by the King, it came on for hearing in the Star-Chamber on the 27th of November. According to the practice of that Court, as soon as

the case had been heard the members delivered their judgments severally in order of seniority, the younger speaking first. On this occasion, Bacon, being the last-appointed Privy Councillor, had to begin; and as it was the first occasion for putting in practice the measures for the repression of duelling which he had himself advised and announced, it is a matter of some interest to know how he handled it. Our means of judging, however, are very incomplete; for though I have found two independent reports of his speech, both apparently made by ear-witnesses, and each no doubt containing much of what he said, they are both so imperfect, especially in the latter part, that it is often hard to guess even the general drift of the argument. The fuller of the two is unluckily the less intelligible, and seems in some places to be made up of unfinished sentences run together, the beginning of one being fitted to the end of another. If an unpractised reporter should try to write down as much as he could of a speech as it proceeded, and as often as he found himself left behind and thrown out should leave the sentence on which he was engaged and take up the speaker's last words; and if a transcriber should then make a fair copy of his report without observing the dislocations, and shape it into consecutive sentences, by inserting commas and full stops at pleasure,—the result would be something like what we have here; and I should not be surprised if that were the real history of it. In the notes of speeches preserved in the Journals of the House of Commons (which appear to have been made in that way) the dislocations are indicated by dashes, and it would perhaps be possible by a liberal use of that mark of separation to make this report more intelligible. But such a process would involve too much invention, and I have thought it better to present the record as I find it; giving both reports *in extenso*, and so set out that they may be easily compared. Enough remains to show in a general way how the case was treated.

IN CAMERA STELLATA XXVII° NOVEMBRIS 1616. NOTES OF THE LORD DARCY'S CASE OF DUELLS AGAINST MR. GERVICE MARKHAM.[1]

King's Attorney,

Here's a Bill of complaint by the Lord Darcy of the North against Mr. Gervice Markham: and it is at the suit of the party

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Sir Francis Bacon[2] said that before he came to his sentence he could not but commend my Lord Darcy for seeking his satisfaction for this

[1] Harl. MSS. 3638, f. 51. [2] Harl. MSS. 6807, f. 180 b.

grieved. In which I commend the Lord Darcy for taking the right course and not the left hand; that he being a Peer of the realm and Counsellor in Parliament born, yet hath shown his obedience to his Majesty's edict, as not to seek to right himself by the sword, but to resort to justice. And so it should be, that the first in place should be first in obedience.*

The offence the Defendant stands charged withal is a compound, and notwithstanding anything I have heard I hold it a mixture, and a chartel and a libel being conjoined they are the more odious, and being accupled they are the worse. Your chartels may have their disguises, but yet they conduce to Duel, and the Duel conduceth to murder. Therefore I will speak something in general of Duels and Libels, and then in particular of this case clad in his circumstances; both briefly; and turn the edge of my speech to root out this vile weed out of the kingdom.

The Duel to which your chartel hath introduction shall never have better terms at my hands than to be the inceptive act to murder. There may be a scarlet in grain and a murder more glorious. And if the insidious murderer deriveth his pedigree from Cain that got his brother with a wile into the fields and so slew him, and the insolent murderer from Lamech, that called his wives together and told them that he would kill a man though he were hurt, there is not much gain in the pedigree for the nobleness of murder. But it always carries this with it, that it is a direct affront of law and tends to the dissolution of magistracy. They being men despising laws divine and human, they

injury by course of law and not of himself: though he were a Peer of the realm by birth, he was glad to see this resolution, that they that are highest in place are first in obedience to the law.

For the cause now in censure: he would speak somewhat in general of those that provoke duelloes, that they are those men whom the prophet David speaks of, that they imagine mischief as a law and make the corvets of their own will to be the rules of their own honour. Men may account a duello an honourable kind of satisfaction, yet it is but a scarlet or a grained kind of murdering. Let the insidious murderer derive his antiquity from Cain and the insolent murderer from Lamech, who could brag to his wives that he could kill a man if he be but wounded, yet are they descended from the Devil. The life of one worthy man hath been the safety of a kingdom. This doctrine of man-killing is grown to a tumour, and must be beaten flat by justice; lest that which is now man-killing should become judge-killing. The law is charged as defective in matters of repa-

become like Anabaptists, that do as the spirit moves them and according to the boundings and corvets of their own wills, and for this they have made acts, and have rules, distinctions, and cases. This is right, as the Scripture saith, to imagine mischief as a law: it is meant of oppression in place of justice and no less meant of punctual faults as artificially invented, as was a law we have doctrine.[1]

These swelling tumours that arise in men's proud affections must be beaten flat with justice, or else all will end in ruin. It is to set a vile price upon the blood of the subject thus to contemn law; for we read in stories that in every battle the virtue of a few persons carried away the day.

Will you have the sacrifices of men, not of bulls or oxen?

You say the law is such. But, my Lords, the law of England is not taken out of Amadis de Gaul nor the books of Parallells,[2] but out of the Scripture, out of the laws of the Romans and Grecians, where never a duel was; and they had such excellent reproachful speeches as we read in their orations, and yet never no sword drawn. But the King hath taken away all excuse, having given a fair passage, and nothing can be offered as a wrong but he hath left sufficient remedy. My Lords, when his Majesty spake lately unto me of this business, and no man expresseth himself like him, he said I come forth and see myself nobly attended, but I know not whether any of them shall live four and twenty hours: for it is but the mistaking of a word in

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ration of honour, and therefore men urge this course of single combats as the only means to right themselves in honour; but men must know that the law of England is not a law taken from Amadis de Gaule or Palmerin de Oliva, but from the ancient Romans and the most illustrious and best governed commonwealths; and therefore ill may he speed that shall seek righting of his honour by other means than by them. He had often heard his M[r] the King express himself graciously concerning these Duelloes (as indeed he doth best express himself of any other when it pleaseth him) That when he goeth abroad he seeth himself royally attended with many goodly noblemen and gentlemen, and taketh great joy and comfort so to see them and think on them. But again it grieveth[3] him much more that he is not assured of the lives of any of them four and twenty hours, for if they discourse but a few words the lie is given, the lie begets a challenge, and the challenge death. Such is his Majesty's contemplation of clemency for the good of his people; answerable with Xerxes

[1] So in MS.
[2] So in MS. A mistake no doubt for 'Palmerin.'
[3] 'giveth' in MS.

heat, and that brings the lie, and that brings a challenge, and then comes the loss of their lives. If Xerxes when he saw that great army, wept upon this thought that in a hundred years they should be all dead, did well,[1] can you blame the King if his heart abounding with clemency grieve to think that by the Duel no man can be safe?

His Majesty gave me two charges: one to proceed without respect of persons.

The last example, brought by my Lord Hubbard at the King's suit, between mean persons, did produce a great deal of good respect; and this is at the party's suit. But it never will be well till these *ductores capita alta ferentes* may be brought at the King's suit and touched in this case. No man shall give greater respect unto great personages than I will be willing to do in other cases: and yet here, in respect of my duty to the King and respect of the safety of the kingdom, I hope I shall not know a coronet from a hat-band, and the King hath given me charge that I shall not take liffe[2] nor yet desist because the marshals of honour handle the case; for there is a double respect. Their proceeding is for the point of reparation of the honour of private parties. But the Star Chamber doth handle wrongs offered to my law and my honour, saith the King; for he that challengeth the party challengeth the law of the land, and they are aforehand with the law.

For the other offence in general, the Libel, I will not speak long. A libel is an offence when it is brought hither, not so much relating to the party in the libel offending, as well said at the Bar, as it tends to the public disturbance and wrong of the State. Salomon saith a good name is like a good odour; a good

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in the compassion of his army, and a fit contemplation for high spirits *et capita alta ferentes*. Therefore as this had been the contemplation of his Majesty, so should it be his protestation in his place hereafter, to choose to prosecute men of the highest rank, if they offend in this kind; and in these kinds of offences *not to* know a coronet from a hat-band. Whosoever doth send a challenge to a man doth send a challenge to the law for want of sufficient remedy for honour. And letters or libels in this kind that tend to provoke a challenge tend to a public destruction of the peace. A good name (saith Solomon) is a good odour: and a libel is a common nuisance or stench over a whole country. If a man call another Traitor he

[1] So in MS. It should probably be "and wept," etc.

[2] So in MS. I cannot guess what word was meant. Perhaps "offe."

ointment casts a fragrant smell; and contrary a libel is like a common *nuisance* that casts an ill odour and spreads itself abroad to the hurt of all. I beseech your Lordships to mark, is it like a case of a word? As if I call a man a Traitor, he may bring his action of the case, or if he be a Peer of the realm, he may bring his *scandalum magnatum*, and may justify; and if it be a matter of scandal, not of slander, then *nil capiat per breve*. But if it be a libel made to defame, it scars not nor skills not whether it be true or no. If it be a libel it is enough; except in matter of aggravation; as it is well set down by Sir Edward Coke in his case of L. P. which is Lewes Pickeringe. So much my Lords for the general.

I will not hold you long, but will tell you what I have noted. First, it is very true that this same letter is not directly nor appertly a challenge, but it is an invitation to a challenge: and (as Mr. Serjeant Crew said elegantly) it is a challenge to a challenge.

The King's edict will out at a window if this be suffered: for I will but put a *si* in the challenge; as to say, if you have a mind to fight with me then send me your man or your writing. I stand not upon the definitive words of a challenge: it is that which conduceth to a combat or duel.

The accepting of a challenge is under the King's Edict, and it is likewise punishable by the Common Law before the Edict.

Because the Defendant hath made two subscriptions, therefore he guides us well. The first contains the lie; it is not the remedy (truly applied at the Bar) presently to go and complain; but first spices it with this, that he will maintain it with his life. What imports that? And then the second part of his letter [is] not an incitation or provocation, but a direct and plain preparation to a challenge. Yet I must tell you had it been the first letter, not in respect of the lie but the libel, if a man should

may have his private action for it; and he that speaks it may justify it as true. But a man so called by a libel, that cannot be justified: for it is no matter whether it be true or no: for that it is a public kind of disgracing a man, tending to the disturbing of the common peace of a kingdom.

Thus much for the general. Now for the particular.

These letters thus dispersed comprehend an invitation to a challenge, or (as it was said elegantly by Serjeant Crewe) a challenge to a challenge, and a designation to a murder. It is a cartel or a libel, or a lie with a bell rung about it that the whole country might know of it. The noblemen of the

play with words, for it is a lie rung about with a bell, and some circumstances there are, I mark not passages of hounds' heads or horse heads not worth the marking, but I tell you what I find. First it is against a Peer of the realm. And my Lords I beseech you let us keep their privileges, among which this is a great one, that they have a voice in Parliament, and some hundred joined with the Spiritualty have as great a voice as all the realm besides. It is a ponderous privilege of the Peers in making of our laws. The gentry are second Nobles, and God forbid the privileges of the Peers should privilege them to wrong any man: yet there ought a distinction to be kept, and because he is a Peer his wrong is the greater. But if he had been a knight or a gentleman we would have punished him in this case. It is true that some of the letters were cast out after a summons of Parliament. But I cannot found my sentence upon that, because I heard it only shed by the way. It somewhat aggravates the fault that Mr. Markham was beholding to my Lord, and that the lie should be given with a *toties quoties*. On the other side it somewhat extenuates the fault (for I thank God I hold the balance right) I think my Lord Darcy was to blame first in the occasion in inviting his friend to recreation, to hunt, to pleasure, to society, where men should beware they turn not wine to vinegar.

Besides my Lord was among his servants and in his own troop, the other alone; and therefore my Lord should have been wary lest anything should have passed to give Markham cause of grief or disgrace. The words were a motive to say he might have been beaten to rags. But they were prettily qualified, for my Lord said a child of five years old might have the better of the day, whereby was showed that he meant it fortune; and the rather because it hath been truly said and I have heard that Mr. Markham is by profession a soldier and well known of his valour; for a man of disputative valour had need be more nice of reputation than a man of declared valour. And for my

kingdom have a great voice in Parliament to make laws, and it is a great privilege to make laws; and therefore a foul misdemeanour to give any of them the lie in this manner with a *toties quoties*. Yet (said he) I will hold the balance of reputation even. As noblemen of gentlemen, so gentlemen must have their due respect of noblemen: they are the second degree of honour unto them.

The first message of Mr. Markham to the Lord Darcy for explanation

Lord to fall in comparison of his man, and that he had been beaten and that to rags, these things before the Commissioners of Honour that handle all disgraces of gentlemen in their reputation, will be well remedied. But take it here as it is, I conclude, had this case been after the edict and proclamation, I should have weighed down the offence in a greater proportion than now I shall, and set a fine ratably. But taking the case as it is, no challenge but a step and *primus gradus* to a challenge, and that upon provocation such as men can scarce bear, being done before the proclamation, when he had as he thought no remedy, and after he knew he had remedy being heartily sorry, and then his modest defence (which hath been very well opened by Mr. Serjeant More and moves me very much), I hold the case such that Mr. Gervace Markham shall pay 500 pounds fine, and imprisonment according to the course of the Court. But for the good behaviour, he being a gentleman of quality as he is, I shall not meddle with it. But if it had been after the Proclamation came forth, I should have meddled with that too. I spare to speak of anything whatsoever appertains to repair the honour or reputation of private persons. I reserve that in all humbleness to my Lords, the great personages in commission touching martial affairs. If I had Beckwith here, I know what I would say to him for his striking and his battery, but that I leave to the Common Law, and the repairing of reputation to[1] those great personages, and to this Court only a fine of five hundred pounds, and imprisonment according to the course of the Court.

The next day Bacon sent Villiers a general account of the day's work, for the King's information; and this is the last we hear of it.

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of his words was but nice opinion of his own valour. For a man of a disputed valour ought ever to be more careful of his reputation than a man of a declared valour. A man of a known valour should have the less regard. And therefore for this offence of writing such letters and publishing them himself afterwards, he did fine him at five hundred pounds and imprisonment. But in regard of his provocation by Beckwith, and the refusing of satisfaction of the Lord Darcy in those terms which might have been more respective, he being a gentleman and his kinsman, and in regard of his modest answer and refusing all justification in this court, he did spare to bind him to the good behaviour, and did leave the matter of reparation of honour of the Lord Darcy to the Lords Commissioners of the Marshall's Court, and the assault and battery to the common law.

[1] 'of' in MS.

TO THE LORD VISCOUNT VILLIERS.[1]

My very good Lord,

I delivered the proclamation for Cloth to Secretary Winwood on Saturday, but he keepeth it to carry it down himself, and goeth down, as I take it, to-day. His Majesty may perceive by the docket of the proclamation that I do not only study but act that point touching the Judges which his Majesty commandeth in your last.

Yesterday was a day of great good for his Majesty's service and the peace of this kingdom concerning duels, by occasion of Darcy's case. I spake big, and publishing his Majesty's strait charge to me, said it had struck me blind, as in point of duels and cartels, etc. I should not know a coronet from a hatband. I was bold also to declare how excellently his Majesty had expressed to me a contemplation of his touching duels: that is, that when he came forth and saw himself princely attended with goodly noblesse and gentlemen, he entered into the thought that none of their lives were in certainty not for twenty-four hours from the duel; for it was but a heat or a mistaking, and then a lye, and then a challenge, and then life: saying that I did not marvel, seeing Xerxes shed tears to think none of his great army should be alive once within a hundred years, his Majesty were touched with compassion to think that not one of his attendance but mought be dead within twenty-four hours by the duel. This I write because his Majesty may be wary what he saith to me (in things of this nature), I being so apt to play the blab. In this also I forgot not to prepare the Judges, and wish them to profess, and as it were to denounce, that in all cases of duel capital before them, they will use equal severity towards the insolent murder by the duel and the insidious murder; and that they will extirpate that difference out of the opinions of men; which they did excellent well.

I must also say, that it was the first time that I heard my Lord of Arundel speak in that place; and I do assure your Lordship he doth excellently become the court; he speaketh wisely and weightily, and yet easily and clearly, as a great nobleman should do.

There hath been a proceeding in the King's Bench against

[1] Stephens's first collection, p. 192. From the original.

Bertram's keeper for misdemeanor, and I have put a little pamphlet (prettily penn'd by one Mr. Trotte, that I set on work touching the whole business,) to the press by my Lord Chancellor's advice.

I pray God direct his Majesty in the Cloth business, that that thorn may be once out of our sides. His Majesty knoweth my opinion *ab antiquo*. Thanks be to God for your health, and long may you live to do us all good. I rest

Your true and most devoted servant,

FR. BACON.

3.

Villiers had risen rapidly in dignity, but he had yet to be provided with means of supporting it. Grants from the Crown, whether of lands, goods, or patents, would naturally pass through the hands of the King's Attorney and Solicitor: Bacon would naturally feel a special and personal interest in this particular case: and we may take the following report to Villiers of the state of "his own business," as a kind of supplement to the advice which he had given him concerning the demands of his public position.

TO THE LORD VISCOUNT VILLIERS.[1]

My very good Lord,

I am glad to find your Lordship mindful of your own business, and if any man put you in mind of it, I do not dislike that neither; but your Lordship may assure yourself, in whatsoever you commit to me your Lordship's further care shall be needless. For I desire to take nothing from my master and my friend but care; and therein I am so covetous, as I will leave them as little as may be.

Now therefore things are grown to a conclusion touching your land and office, I will give your Lordship an account of that which is passed, and acquaint your judgment (which I know to be great and capable of anything) with your own business; that you may discern the difference between doing things substantially and between shuffling and talking. And first for your Patent.

First, it was my counsel and care that your book should be fee-farm, and not fee-simple; whereby the rent of the crown in succession is not diminished, and yet the quantity of the land

[1] Stephens's first collection, p. 188. From the original.

which you have upon your value is enlarged; whereby you have both honour and profit.

Secondly, By the help of Sir Lyonel Cranfield I advanced the value of Sherbourn from 26000*l.* (which was thought and admitted by my Lord Treasurer and Sir John Deccomb, as a value of great favour to your Lordship, because it was a thousand pound more than it was valued at to Somerset) to thirty-two thousand pounds; whereby there was six thousand pounds gotten, and yet justly.

Thirdly, I advised the course of rating Hartington at a hundred years purchase, and the rest at thirty-five years purchase fee-farm, to be set down and expressed in the warrant; that it may appear and remain of record, that your Lordship had no other rates made to you in favour than such as purchasers upon sale are seldom drawn unto; whereby you have honour.

Fourthly, That lease to the feoffees, which was kept as a secret in the deske[1] (and was not only of Hartington, but also of most of the other particulars in your book) I caused to be throughly looked into and provided for; without which your assurance had been nothing worth. And yet I handled it so, and made the matter so well understood, as you were not put to be a suitor to the Prince for his goodwill in it, as others ignorantly thought you must have done.

Fifthly, The Annexation[2] (which no body dreamt of, and which some idle bold lawyer would perhaps have said had been needless, and yet is of that weight, that there was never yet any man that would purchase any such land from the King, except he had a declaration to discharge it,) I was provident to have it discharged by declaration.

Sixthly, Lest it should be said that your Lordship was the first (except the Queen and the Prince) that brake the Annexation upon a mere gift; for that others had it discharged only upon sale, which was for the King's profit and necessity; I found a remedy for that also; because I have carved it in the declaration, as that this was not gift to your Lordship, but rather a purchase and exchange (as indeed it was) for Sherbourn.

Seventhly and lastly, I have taken order (as much as in me was) that your Lordship in these things which you have passed

[1] *Decke* 1st coll. *Deske* 2nd coll.

[2] The annexation by which lands, etc., were united or annexed to the Duchies of Cornwall and Lancaster. (Note by Stephens.)

be not abused, if you part with them: for I have taken notes in a book of their values and former offers.

Now for your Office.

First, Whereas my Lord Teynham, at the first, would have had your Lordship have had but one life in it, and he another; and my Lord Treasurer, and the Solicitor, and Deccombe, were about to give way to it; I turned utterly that course, telling them that you were to have two lives in it, as well as Somerset had.

Secondly, I have accordingly, in the assurance from your deputies, made them acknowledge the trust and give security not only for your Lordship's time, but after; so as you may dispose (if you should die, which I would be sorry to live to) the profits of the office by your will or otherwise to any of your friends for their comfort and advancement.

Thirdly, I dealt so with Whitlocke as well as Heath, as there was no difficulty made of the surrender.

Lastly, I did cast with myself, that if your Lordship's deputies had come in by Sir Edward Cooke who was tied to Somerset, it would have been subject to some clamour from Somerset, and some question what was forfeited by Somerset's attainder (being but of felony) to the King; but now they coming in from a new Chief Justice, all is without question or scruple.

Thus your Lordship may see my love and care towards you, which I think infinitely too little in respect of the fulness of my mind; but I thought good to write this, to make you understand better the state of your own business; doing by you as I do by the King; which is, to do his business safely and with foresight not only of to-morrow or next day, but afar off; and not to come fiddling with a report to him what is done every day, but to give up him a good sum in the end.

I purpose to send your Lordship a kalendar fair written of those evidences[1] which concern your estate, for so much as have[2] passed my hands; which in truth are not fit to remain with solicitors, no nor with friends, but in some great cabinet to be made for that purpose.

All this while I must say plainly to your Lordship, that you fall short for your present charge, except you play the good

[1] So in the 2nd collection. The copy in the first collection has 'evidence.'
[2] So in 2nd collection. The 1st has 'as I have.'

husband; for the office of Teynham is in reversion, Darcye's land is in reversion; all the land in your books is but in reversion, and yields you no present profit, because you pay the fee-farm. So as you are a strange heteroclite in grammar, for you want the present tense; many verbs want the præterperfect tense, and some the future tense, but none want the present tense. I will hereafter write to your Lordship, what I think of for that supply; to the end that you may, as you have begun to your great honour, despise money, where it crosseth reason of state or virtue. But I will trouble you no further at this time. God ever preserve and prosper your Lordship.

Your true and most devoted servant,

November 29, 1616. FR. BACON.

4.

Among the persons implicated in the murder of Overbury, there remained one whose case was not yet disposed of, and presented a peculiar difficulty. In the arrangements for transferring the authority of Lieutenant of the Tower to Hellwysse and that of under-gaoler to Weston, Sir Thomas Monson had been employed by Somerset and Northampton as a messenger. It did not follow that he had any reason to suspect the object of those measures, but as they were in fact preliminary conditions without which the murder could not have been accomplished, his employment in them exposed him to grave suspicion. Coke examined him, and easily concluding that he was guilty, reported to the King that he was about to proceed against him as an accessory before the fact. Up to this time the persons brought to trial had been persons about whom the King knew nothing, and he had been content to take Coke's word for the sufficiency of the evidence. But Sir Thomas Monson was a gentleman belonging to the Court, of good character and position, a Knight and a Baronet, with friends; and before he would believe him guilty of such a crime he desired to see the depositions. He accordingly sent to Coke for the papers, and finding upon careful examination that the evidence was too inconclusive as it stood to justify a verdict of guilty, directed him to defer the trial, "that it might be seen what other evidence would come against him."[1] But before the order arrived the preparations had already proceeded so far that the reading of the indictment could not, in Coke's opinion, be dispensed with or postponed; and on the 4th of December 1615 Monson was

[1] Statement by the Bishop of Bath and Wells, as reported by John Lepton, groom of the Privy Chamber. See Archæologia, vol. xli.

brought to the bar, and arraigned. He pleaded not guilty, and put himself upon God and his country; after which he was removed from the Court without further proceeding, and sent to the Tower; where he remained for ten months.

If this abortive proceeding was really necessary (which I confess I find it very hard to believe) it must be said that it was a very unlucky necessity. Had the indictment been simply deferred, it might have been proceeded with whenever evidence had been collected sufficient to justify it; and if such evidence were not forthcoming, the prisoner need only have been discharged, like any one else who having been apprehended on suspicion was not found to deserve prosecution. But after he had been formally accused of a specified crime, neither justice nor mercy could be properly satisfied by simply letting him go. Justice entitled him, if innocent, to a verdict of not guilty. But such a verdict could not be had without a trial, which would have involved the reopening of the whole question of the murder. Mercy might offer him a pardon: but pardons are for the guilty. Sir Thomas Monson stood upon his innocence, confidently demanded trial, and expected acquittal. And even if the pardon were so framed as to imply a withdrawal of the accusation, there was another difficulty in the way. When the trial was suddenly stopped on the 4th of December, it was necessary to give some explanation of so unusual a thing: and Coke, having (we will hope) misunderstood the King's motive for deferring the trial, and being extremely anxious that no rumour of a doubt should get abroad as to the guilt of anybody who was to be tried in *his* Court, had taken care to inform the audience at the time, not only that the interruption of the proceeding had no reference to any such doubt, but that there was in fact no doubt about the matter, and that Monson's protestations of innocence showed him "to be indeed a very atheist," "the proofs being so plain that were to be produced against him."[1]

This was the last official declaration concerning his case. But no further evidence having been brought out in the course of the subsequent examinations and trials to throw fresh light upon it, he was in the beginning of October, 1616, released from the Tower upon bail, and allowed liberty for a year;[2] and the case was now upon his petition referred to Bacon and Yelverton, with the question, what should be done: and here is their report.

[1] Throckmorton to Turnbull, 20 Dec. 1615. See 'Court and Times of James I.' vol. i. p. 384.

[2] Chamberlain to Carleton, Oct. 12, 1616. S. P. Dom. James I. vol. xc. no. 62.

CERTIFICATE OF BACON AND YELVERTON CONCERNING SIR THOMAS MONSON'S CASE.[1]

It may please your most excellent Ma^tie^,

According to your pleasure signified to me your Attorney by word of mouth, we have considered of the state of Sir Thomas Mounson's case, and what is fit further to be done in it. And we are of opinion,

First, that it is altogether unfit to have a proceeding to a trial, both because the evidence itself (for so much as we know of it) is conjectural, as also for that to rip up those matters now will neither be agreeable to the justice nor to the mercy formerly used by your Majesty towards others.

Secondly, to do nothing in it is neither safe for the gentleman nor honourable (as we conceive) for your Majesty, whose care of justice useth not to become faint or weary in the latter end.

Therefore we are of opinion that it is a case fit for your Majesty's pardon, as upon doubtful evidence, and that Sir Thomas Mounson plead the same publicly, with such protestations of his innocency as he thinks good, and so the matter may come to a regular and just period; wherein the very reading of the pardon which shall recite the evidence to be doubtful and conjectural, added to his own protestations, is as much for the reputation of the gentleman as we think convenient, considering how things have formerly passed.

Hereupon we have advised with the Lord Chancellor, whom we find of the same opinion. All which nevertheless we in all humbleness submit to your Majesty's better judgment.

Your M.'s most humble and most
bounden servants,

FR. BACON.
HENRY YELVERTON.

7th of December, 1616.

This advice was acted upon. The King ordered Bacon to draw up a pardon for Sir Thomas Monson, which was accordingly done. The preamble ran as follows:

[1] S. P. Dom. James I. vol. 89, no. 65. Written in the hand of one of Bacon's men. Signatures original. Date inserted apparently by Yelverton.

"Cumque honori Regis maxime conveniat res et causas pervestigare, ne per defectum inquisitionis innocens condemnetur vel nocens absolvatur, quandoquidem evidentiæ et probationes criminum unde præfatus Thomas Mounson miles et Baronettus (ut perfertur) indictatus existit, minime certæ et plenæ sed dubiæ et conjecturales existant, etc. Sciatis igitur quod nos tam pietate quam justitiâ moti, perdonavimus," etc.

On the 12th of February 1616–7 Sir Thomas appeared at the bar of the King's Bench, delivered up his pardon, and when it had been read addressed the Court. The substance of his speech was a solemn protestation of his innocence. The preamble of the pardon itself admitted that the proofs and evidences were insufficient. "Which testimony of record (he said) though it might abundantly satisfy any impartial judgment, yet for the more full and ample clearing of my reputation to the world, which next my conscience to God I hold the dearest thing to me in this life, I do here before him who knoweth the secrets of all hearts, in the face of this high seat of Justice, profess and protest that I am guiltless of the blood of that man for which I stand here indicted, guiltless of the fact, guiltless of the procurement thereof, guiltless of the privity or consent thereto, directly or indirectly."

The Chief Justice (Sir H. Montagu) acknowledged in his reply that the case was exceptional, and a protestation of innocency legitimate. "It is true, as you say, that every pardon is an implied confession of the fact; but yours is not so, but is a declaration of your innocency. . . . Your pardon is not a pardon of grace according to the common form, but is granted *tam pietate quam justitiâ moti*, as the pardon itself says."[1]

And so the matter ended.

5.

It is about this time that we have the first news of an anonymous letter, famous in its day and still worth preserving, but holding a position in our literature much above its right, and due to a misconception.

On the 21st of December 1616, Chamberlain writes to Carleton, after sending the latest news about Sir Edward Coke,

"There is a discourse abroad by way of advice to him. By that little I saw of it, it is worth the having, and I have wished Mr. Sherburn to get it for you, and told him the mean, though I cannot do it myself."[2]

[1] S. P. Dom. James I. vol. 90, no. 62. [2] Id. vol. 89, no. 87.

On the same day Sherburn himself writes—

"I am bold to send you this paper which I think is not yet come to your hands, being the advice of a concealed friend to Sir Edward Cooke. The truth and plainness which he useth maketh it the better liked, and I am of opinion your Lordship will be well pleased in reading the same."[1]

On the 22nd of February, in answer apparently to some inquiry as to the authorship of the paper, Chamberlain writes again:

"I forgot in my last to signify all I could learn touching the author of that discourse to the Lord Cooke. Some father it upon Mr. Attorney, some upon Josuah Hall or Dr. Hayward, and some upon one of those you name; but certainty we have none."[2]

A correspondent of Tobie Matthew's, writing to him before his return to England about the miscarriage of a packet with which he had been charged from "Mr. Attorney" (that is, Bacon), adds at the end of his letter,

"I here send you for your pastime a Letter Consolatorie, which was written to the great judge upon his disgrace; nor is it an ill one in my opinion, where the passion of zeal does not sway the writer; but there he is as absurd as any prentice would make a shift to be."[3]

The paper alluded to in each case is one of which there are many contemporary copies scattered about in collections, under various titles, and all without any name subscribed. Though of some value for the light it throws upon the state of political parties and opinions at the time, I should not myself have thought it worth any particular notice if the blank left for the name of the writer had not been filled up by somebody with the name of Bacon, and secured for it (with the general consent of editors, biographers, and critics) a place among his works. When a writing has been once printed with a man's name, to show that there is no sufficient reason for supposing that it was his is not thought enough: you are expected to show sufficient reason for concluding that it was not: and though I do not admit the challenge to be fair, I am willing in this case to accept it. With the help of what has gone before, I think I can show that whoever the author of this paper may have been, he cannot have been Bacon; but I must waste a little ink and paper upon it.

For the general consent of editors in printing it as his, we are indebted I believe to an inadvertency on the part of Robert Stephens. In 1648, more than thirty years after the time when it was written, a volume appeared with the title of "Remains of the Right

[1] S. P. Dom. James I. vol. 89, no. 88. [2] Id. vol. 90, no. 79.
[3] Matthew's Collection of Letters, p. 101.

Honourable Francis Lord Verulam," etc., and this letter appeared in it. From the "Remains" it was promoted to the "Cabala"—a volume of superior character in other respects, but equally without any responsible editor or any traces of intelligent editorial supervision. On the authority of the "Remains" and the "Cabala" together, it was included by Stephens in his "Letters and Memoirs of Sir Francis Bacon" (1702); but with one material and unjustifiable alteration introduced either by himself or his printer. Though the editors both of the "Remains" and the "Cabala" must be understood as assuming that it was written by Bacon, they both printed it as they found it, with a blank in the place of signature; showing that it was not written in the writer's name. Stephens inserted Bacon's name at the bottom, and thereby not only settled the question of authorship but gave it the character of an ordinary letter from one man to another; and this without notice of the innovation. Having once appeared in that form in a collection of that authority, it is not surprising that it continued to keep its place among Bacon's letters, which have not hitherto been studied either by editors or critics or biographers with attention enough to suggest the difficulty. How Stephens himself came to overlook it, is less easy to explain. He was in general so careful and intelligent an editor and so well-informed a man, that to a modern reader who has taken pains to understand this letter it may well seem strange that he was not struck with the absurdity of supposing that Bacon wrote it. But the absurdity was not so obvious then as it is now. The history of the affairs to which it relates was not so easy of access, the correspondence which contains it having for the most part remained unpublished till after Stephens's death; and I am not sure that he had the means of understanding the nature of the transactions to which the writer of the letter alludes.

It was owing to the *style* (which has a strong character of its own, quite unlike Bacon's) that I was myself first led, in spite of the signature, to question the authorship. But when I came to examine the sense and understand the allusions, I found the matter still more conclusive than the style.

It will be obvious even on a cursory reading that the writer, though he had some grudges against Coke on personal grounds, sympathised with him in his political action and regarded him as the champion of the Commonwealth; which could never have been Bacon's case. A sense of former ungracious usage, and a certain satisfaction at the opportunity now presented of repaying it by a lecture which though wholesome would be disagreeable, gives flavour to his criticism; but no part of the blame is bestowed upon

the spirit, purpose, or policy of any of Coke's recent proceedings all which he entirely approves and applauds,—blaming only the ill management which had caused the ill success. He begins with an apology for the liberty he is about to take in speaking plainly. At other times, he says, he has not been able to do so safely; but affliction is sent from Heaven to plough the heart and prepare it to receive the seed of wisdom and bring forth the increase of grace; and "supposing this to be the time of his affliction" he will take advantage of it to perform the office of a true friend, and tell him his faults. Then follows a careful enumeration and exposition of the defects which mar his virtues; as a habit of speaking without listening, of preferring his own arguments though they be the weaker, of expatiating out of his element, of "cloying his audience when he would be observed," of conversing with none but underlings, and with them only as a schoolmaster with scholars, of praising and disgracing upon slight grounds, of unseemly jesting at men in public, of making the law lean too much to his opinion, and of spending his wealth upon himself: in all which general censures Bacon, though he would have expressed them differently, would probably have concurred substantially. But from this the writer proceeds to a particular criticism of Coke's management of the Overbury business, and so enables us to judge (being so well acquainted as we now are with all the details) how much he knew about it and where he got his information. As there is some obscurity in the style at this part—which I attribute to a not unreasonable apprehension of the Star Chamber, before which an unambiguous avowal of the opinions implied would probably have been visited with a fine for scandalising the Government—I give the whole passage as it stands.

"In your last, which might have been your best, piece of service to the State, affecting to follow that old rule which gives Justice leaden heels and iron hands, you used too many delays till the delinquents' hands were loose and yours bound; in that work you seemed another Fabius, but there the humour of Marcellus would have done better: what need you have sought more evidence than enough? Whilst you pretended the finding out of more, missing your aim you discredited what you had found. The best judgments think, though you never used such speeches as are fathered upon you, yet you might well have done it and done but right. For this crime was second to none but the powder-plot. That would have blown up all at a blow, a merciful cruelty. This would have done the same by degrees, a lingering but as sure a way: one by one might have been culled out till all opposers had been removed. Besides, that other plot was scandalous to Rome, making popery odious in the sight of all the world: this hath been scandalous to the truth of the gospel, ever since the first

nullity[1] to this instant, when Justice hath her hands bound. The devil could not have invented a more mischievous practice to our state and church than this is, hath been, and is like to be. God avert the evil. But herein you committed another fault, that as you were too open in the proceedings and so taught them where to defend themselves, so you gave them time to undermine justice, and to work upon all advantage both of affections and humours and opportunities and breaches of friendship; which they have so well followed (sparing neither pains nor cost) that it almost seems an offence in you to have done so much seeing that you did no more:[2] you stopt the confessions and accusations of some, who perhaps, if they had been suffered, would have spoken enough to have removed some stumbling-block out of your way; and yet you did not this in true favour to any one, but out of I know not what present unadvised humour, supposing enough behind to discover all: which fell not out so: for there is *sigillum confessionis non confiteri.* However, (as the Apostle says in another case) you *went not right to the truth:* and therefore, though you were to be commended for what you did, yet you were to be reprehended for many circumstances in the doing; which occasioned that there was no more done. And doubtless God hath in this cross an eye to the negligence, and these briars are left to be pricks in your side and thorns in your eyes."[3]

Now if the reader will turn back to the last volume, p. 338, he will find what all this means. This "crime second to none but the powder-plot"—this plot through which "one by one might have been culled out till all opposers had been removed"—can be no other than that which Franklin in his conference with Dr. Whiting on the 28th of November 1615 offered to reveal, and which Coke on the 4th of December following announced as a discovery that made "our deliverance as great as any that happened to the children of Israel."

"There were greater persons in this matter than were yet known." . . . "The Chief Justice . . . hath not come to the ground of the business; for more were to be poisoned and murdered than are yet known, and he marvelleth that they have not been poisoned and murdered all this while." . . . "I think next the gunpowder treason there was never such a plot as this is. I could discover knights, great men and others." . . . "He gave a glance at Sir William Mounson for the bringing of an hundred pounds for the feeding of the plot."

[1] That is, the divorce of Lady Essex from her husband, preparatory to her marriage with Rochester. We do not know what Bacon *thought* about that proceeding: he never spoke of it so far as I am aware: but we do know that he could not possibly have spoken of it publicly in this way, whatever he thought.

[2] The old copies have "so much indeed that you did no more:" which being unintelligible, the editor of the *Cabala* has substituted "that it almost seemeth an *higher* offence in you to have done so much indeed *than* that you have done no more;" which seems to me to be nonsense. "Seeing" for "indeed" is my own conjecture.

[3] I quote from a MS. in the Cotton library (Tit. C. vii. f. 23), which appears to have belonged to Camden.

The writer of the letter therefore was one who believed that this great Popish poison-plot was a fact—that Coke had in his possession evidence of it enough to proceed upon—and that while he was searching for more the parties implicated had succeeded in suppressing the enquiry and binding the hands of justice. Who can suppose that Bacon believed anything of the kind, or that if he did he would have given utterance to his belief in such a letter as this? A man who had heard Coke's public declaration, who got his information in Paul's walk, and his opinion from "the best judgments,"—that is, from the leaders and clergy of the Puritan party—*might* have believed that some great Popish crime had been discovered, and had been hushed up because it concerned great persons; but in Bacon's position it is difficult to see how there could have been any hushing up without his being a party to it: and that he could have allowed the hint of such a scandal against the government to escape him in a letter which was certainly not meant to be confidential, may be set down among the things that are absolutely incredible.

This paragraph would with me be conclusive: but here is another.

"But that which we commend you for are the many excellent parts of nature and knowledge of the laws you are endowed withal: but these are only good in their good use. We therefore thank you for standing stoutly on the behalf of the commonwealth, hoping it proceeds not from a disposition to oppose greatness (as your enemies say), but to do justly and deliver truth indifferently without respect to persons; and in this we pray for your prosperity and are sorry that good actions should not ever succeed happily. But in the carriage of this you were faulty: for you took it in hand in an ill time, both in respect of the then present business which it interrupted, and in regard of his sickness whom it concerned, whereby you disunited your strength and made a gap for the enemy to pass out at and to return and assault you."[1]

The action here referred to can be no other than which is related at large in Bacon's letter to the King of the 20th of February 1615–6 (Vol. V. p. 249)—the preferring of indictments of *Præmunire* in the King's Bench for suing in Chancery after judgment at Common

[1] Compare Chamberlain's letter to Carleton, 14 Nov. 1616. Speaking of the assassination of Sir John Tyndall, Master in Chancery, he says "Mine author, Ned Wymarke, cites Sir William Walter for saying that the fellow mistook his mark and should have shot hail-shot at the whole Court, which indeed grows great, and engrosses all manner of cases, and breeds general complaint, for a decree passed there this term, subscribed by all the King's learned Counsel, whereby that Court may receive and call in question what judgments soever pass at the common law, whereby the jurisdiction of that Court is enlarged out of measure, and so suits may become as it were immortal. *This success is come of my Lord Coke's and some of the Judges oppugning the Chancery so weakly and unseasonably that instead of overthrowing the exorbitant authority, they have more established and confirmed it.*" C. & T. of James I. i. p. 439. This shows clearly enough from what quarter this criticism of Coke proceeded. Chamberlain's sympathy was with the moderate opposition.

Law—and which ended in the King's decree printed at page 385. The business which it interrupted was the indictment of the Somersets. The sick person whom it concerned was the Lord Chancellor Ellesmere, against whom it was directed. The writer of the letter therefore was one who believed that Coke's attack upon the Chancery was a patriotic act, wished that it had succeeded, and censured the carriage of it only because it had given an advantage to "the enemy" and exposed it to defeat. Bacon, as we have seen, regarded it as a dangerous innovation,—a great and public affront to the legitimate authority of the Crown, which was not to be allowed to "end only in some formal atonement," but to be used as an occasion for strengthening and establishing the authority which it assailed; and the accomplishment of this, which was due chiefly to his own care, judgment, and activity, he looked upon as one of the most valuable services which he had been able to render to the commonwealth. That *he* could have complimented Coke upon the virtue of the attempt and condoled with him on the failure of it, cannot I think be regarded as credible by any one who remembers the spirit in which he encountered it from the first to the last. But it was precisely the view which the Puritan opposition took of it, and in the mouth of any member of that party no language could be more natural.

The question then being, to whom shall we attribute a letter which was put forth anonymously, and concerning the authorship of which there does not exist even the tradition of the opinion of any known man who lived within 80 years of the date, these passages will I presume be thought sufficient to justify us in concluding that at any rate we cannot attribute it to Bacon. It is not necessary therefore to pursue this enquiry further in this place. Otherwise it might be shown that the rest of the letter leads to the same conclusion. The writer having sufficiently explained to Coke his errors past, proceeds to offer him advice for the future. Now if we could conceive of Bacon as in a position to offer advice to Coke without absurdity, we know pretty well what the tenor of his advice would have been. Would it have been like this which follows?

"But now since the case so stands, we desire you to give way to power, and so to fight that you be not utterly broken, but reserved entire to serve the commonwealth again, and to do what good you can since you cannot do all the good you would; and since you are fallen upon this rock, cast out your goods to save the bottom: stop the leak and make towards the land; learn of the steward to make friends of the unrighteous Mammon. . . . You have enough to spare (being well used) to turn the tide and fetch all things about again.

"But if you escape . . . yet consider that accusations make wounds and

leave scars. . . . Trust not reconciled enemies, but think the peace is but to secure you for further advantage. Expect a second or a third encounter: the main battle and the wings are yet unbroken; they may charge you at an instant with Death before them. Walk therefore circumspectly, and if at length by the means of our good M^rs[1] and yours, you recover the favour you have lost, give God the glory in action, not in words only; and remember us (with sense of your own past misfortune) whose estates and undoing hath, doth, and may hereafter lie in the power of your breath.[2] . . . Do not you, if you be restored, as some others do, fly from the service of virtue to serve the time, as if they repented their goodness or meant not to make a second hazard of earthly favour for a reward that is promised in heaven; but rather let this cross make you more zealous in God's cause, sensible of ours, and more sincere in all; which express thus.

"You have been a great enemy to the Papists: if you love God, be so still, but more indeed than heretofore; for much of your zeal before was wasted in words; call to remembrance they were the persons that prophesied of this cross of yours long before it happened; They saw the storm coming, being the principal contrivers and furtherers of the plot, the men that blew the coals, heat the irons, made all things ready. They owe you a good turn, and will if they can pay it. You see their hearts by their deeds. . . . The best good work you can do is to do the best you can against them, that is, to see the law severely, justly, and diligently executed. . . . For friends, though your Lordship be scant, yet I hope you are not altogether destitute: if you be, look on good books. . . . To them and to God's holy Spirit directing you in the reading of them, I commend your Lordship; beseeching him to send you a good issue of the said troubles, and from hence to work a reformation in all that is amiss, and a resolute perseverance proceeding and growth in all that is good; and that for his glory, the benefit of yourself, his church and commonwealth, whose faithful servant whilst you remain, I remain a faithful servant to you."

Surely this is the language of some zealous Puritan, who wished to see Coke reinstated in order that he might be again the great enemy of the Papists, and the great champion of the commonwealth against the Crown. There were scores of men in the country who took that view of his case and were quite competent to write such a letter as this. Why should we go so very far out of the way of all probability as to impute it to Bacon?

I know that in refusing it a place among his works I am opposing

[1] So in the MS. The *Remains* has "by our good masters and governors." The *Cabala* "good endeavours." The "good mistress" was I presume the Queen, who was supposed to favour Coke. See Chamberlain to Carleton, 9 Nov. 1616. "Yet the Queen is said to stand firm for him and to have been very earnest in his behalf," etc. C. & T. i. 435.

[2] Whom could Bacon have meant by "us" in this passage, or by "ours" in the next sentence?

myself to the many eminent writers who have accepted it without suspicion as his. But it is the absence of suspicion that diminishes the value of their opinion. They have not explained away the difficulty: they have overlooked it. On the other hand, I am not without supporters. The error of ascribing this letter to Bacon was pointed out long ago by Godwin in a note to his History of the Commonwealth. (Vol. i. p. 8.) More recently Mr. Gardiner, another original and diligent writer, though not aware that the authorship had been called in question before, came to the same conclusion upon internal evidence. "It seems to me (he says) to be neither written in Bacon's style nor to express his thoughts."[1] And I will venture also to cite Lord Macaulay; though I am not aware that he ever delivered his opinion on the question. For I cannot think that he would have foregone the use he might have made of this letter in painting the black side of Bacon, if his acquaintance with the history of the period had not enabled him to understand what it was about, and satisfied him that Bacon could have had no hand in it.

But as there are some persons who hold it a kind of heresy to question the authenticity of anything which has been printed as authentic in a book of good repute, it may be as well perhaps before quitting the subject to call attention to a modern discovery in a similar case, which has a direct bearing upon the present question, as showing that the printed book on the authority of which this letter has been ascribed to Bacon is not infallible in such matters; and which ought to find a place somewhere in this edition,—the rather because it gives me an opportunity to confess and correct a misstatement of my own. Other disputable pieces are contained in that book, and have been received on its authority among Bacon's works. Some of these are still disputed; but there is one concerning which the dispute has been within the last few years finally settled, and cannot be raised again.

All editions of Bacon contain a theological piece entitled "The characters of a believing Christian in paradoxes and seeming contradictions," commonly spoken of as "Christian Paradoxes." It was inserted by Blackbourne in the first complete edition, along with some others in like case; but with a prefatory warning that their authenticity was dubious. Birch, whose edition (originally published in five volumes 4to and afterwards reprinted in ten volumes 8vo) kept the market for the best part of a century, retained those pieces, but omitted the prefatory warning: whereby the "Christian Paradoxes" enjoyed a long period of undisturbed possession as an acknowledged work of

[1] Hist. of England, 1603–1616, vol. ii. p. 283, note.

Bacon's. Montagu restored the warning, and reopened the question by an elaborate collection of arguments for and against, but allowed the "Paradoxes" to keep their place among Bacon's theological writings. When it came to my own turn to deal with the question, I decided to withdraw them from their place among the works, and print them in an appendix, with a preface explaining my reasons for concluding that they were not written by Bacon. These reasons were founded upon considerations of *style*, simply. I saw nothing in the opinions, implied or expressed, which might not have proceeded from him: but I observed that "the composition had none of the marks of his manner, but a manner of its own essentially unlike his."

This was in 1859. In 1864 the Rev. Alexander Grosart, to whose affectionate study of the religious writers of that period we owe so many valuable reprints, had the good fortune to make all further doubt and discussion superfluous by producing the real author. The work in question forms a portion of the second part of Herbert Palmer's *Memorials of Godlines and Christianity*. It was published by himself in 1645 and went through no less than twelve editions within the next 63 years. The first edition of the Memorials (which appeared in 1644) contained, it is true, the first part only: but the twelve succeeding ones which were called for between 1645 and 1708 must all have contained the "Christian Paradoxes:" and a very strange thing it is, considering the number of persons who must have been familiar with a work which enjoyed that kind of demand, that when it appeared, only 22 years after, in so conspicuous a book as the first *opera omnia* of Bacon, there was no one to claim it for its proper author; and that though it has attracted a great deal of attention and been the subject of much dispute in later years—the question in dispute being nothing less than whether Bacon was a believer in Christianity—Mr. Grosart should have been the first man whose reading extended far enough in both regions to enable him to set the matter right. He has reprinted the whole of Palmer's little volume from the fifth edition (published in 1655), and accompanied it with an interesting memoir of the man, and with much critical and bibliographical matter of his own, which make it a valuable book.[1] But the proof of the authorship is so complete and decisive that as editor of Bacon I have no further business with it. All I have to do is to disclaim on his behalf all property and concern in it, and to confess on my own part that while Mr. Grosart's discovery confirms my judgment of these Paradoxes both as to authorship and character

[1] "Lord Bacon not the author of the 'Christian Paradoxes.' Printed for private circulation, 1864."

—showing that I was right in concluding not only that the writer was *not* Bacon but that he *was* a profound believer in the Christian theology—he has at the same time convicted me of two grave editorial delinquencies. I have stated in my prefatory notice of the "Paradoxes," (referring to M. Charles de Remusat as my authority), that they "appeared first in 1643, in a separate pamphlet under Bacon's name." Instead of 1643 I ought to have said 1645; and I ought not to have said anything about the name. The first mistake was probably a slip of the eye, the figure 3 in the French type being easily mistakable for 5. How I came to say that the pamphlet appeared under Bacon's name, I cannot guess. For in the note from which I had my information there is nothing that could have suggested it; nor is it the fact. The pamphlet, of which there is a copy in the British Museum, bears no writer's name. If the controversy were still open, I should show that the correction of this error, instead of weakening my argument, helps it. But that question is closed: and I hope this other may now be considered as closed likewise.

6.

A letter from Bacon to the University of Cambridge, which being dated the 5th of July ought in due order to have come in a little before, will perhaps be read more conveniently here,—in connexion with another which belongs properly to the time at which we have arrived.

He was standing counsel to the University. In their letter of congratulation on his being made a Privy Councillor, they had expressed, it seems, some apprehension that his new dignity would interfere with his duties in that relation; some fear that it would, or some hope that it would not. The following letter, for which we are indebted to Tenison, is his answer.

RESCRIPTUM PROCURATORIS REGIS PRIMARII, AD ACADEMIAM CANTABRIGIENSEM, QUANDO IN SANCTIUS REGIS CONSILIUM CO-OPTATUS FUIT.[1]

Gratæ mihi fuere literæ vestræ, atque gratulationem vestram ipse mihi gratulor. Rem ipsam ita mihi honori et voluptati fore duco, si in hâc mente maneam, ut publicis utilitatibus, studio indefesso, et perpetuis curis, et puro affectu, inserviam. Inter partes autem reipublicæ, nulla animo meo carior est quàm academiæ et literæ. Idque et vita mea anteacta declarat, et

[1] Baconiana, p. 37. There is a manuscript copy in Sloane MSS. 3562, f. 86.

scripta. Itaque quicquid mihi accesserit, id etiam vobis accessisse existimare potestis. Neque vero patrocinium meum vobis sublatum aut diminutum esse credere debetis. Nam et ea pars patroni quæ ad consilium in causis exhibendum spectat, integra manet; atque etiam (si quid gravius acciderit) ipsum perorandi munus (licentiâ Regis obtentâ) relictum est; quodque juris patrocinio deerit, id auctiore potestate compensabitur. Mihi in votis est, ut quemadmodùm à privatorum et clientelarum negotiis ad gubernacula reipublicæ translatus jam sum; ita et postrema ætatis meæ pars (si vita suppetit) etiam à publicis curis ad otium et literas devehi possit. Quinetiam sæpius subit illa cogitatio, ut etiam in tot et tantis negotiis, tamen singulis annis aliquos dies apud vos deponam; ut ex majore vestrarum rerum notitiâ vestris utilitatibus melius consulere possim.

Amicus vester maximè fidelis et benevolus,

FR. BACON.[1]

5 Julii 1616.

The first occasion on which the University had to call for his help after his advancement to the Council-board was a petition from the townspeople of Cambridge for a new charter. The Mayor, Bailiffs, and Burgesses petitioned the King to give the University and Corporation of Cambridge equal rank with the University and City of Oxford, and therefore "to incorporate them to be a City by the name of Mayor, Aldermen, and Citizens of the City of Cambridge," with such liberties, privileges, franchises, etc., as the Lord Chancellor, the Lord Treasurer, and the Attorney-General should think meet.

[1] I was glad to receive your letter and I congratulate with myself upon your congratulation. For the thing itself, I consider that it will be to me an honour and a pleasure in so far as I continue in the mind in which I now am—which is to apply myself with unwearied zeal, continual cares, and pure affection, to the public interests. Now that among the parts of the Commonwealth none is dearer to my mind than colleges and letters, both my past life and my writings declare. And therefore whatever addition I receive you may account as an addition to yourselves likewise. Nor need you suppose that even my services as counsel are withdrawn from you or impaired. For that part of a counsel's office which relates to the giving of advice in your causes is left entire; and if any serious occasion should call for it, I shall still be able, (with the King's leave obtained,) even to plead for you in court; and whatever you lose in my services as counsel will be made up in the increase of my power. It is my hope, that as I am now translated from the businesses of private persons and clients to the government of the state, so my latter years (if life be continued to me) may be withdrawn again from public cares and fall to leisure and letters. Moreover the thought often occurs to me, that even in the midst of so many and great businesses I may nevertheless spend a few days each year among you, that by a better knowledge of your affairs I may be better able to consult your interests.

Your most faithful friend and wellwisher,

F. B.

To those three officers,—who were respectively the High Steward, the Chancellor, and the Standing Counsel of the University, the King (in accordance with the prayer of the petitioners) referred the petition. On the 12th of October, 1616, the Lord Treasurer transmitted it to the authorities of the University for their remarks. The authorities, not having had any reason to suppose that the townspeople were very zealous for their honour, and having had some experience of the effect of a charter which they had formerly "without good advice of their counsel" allowed to pass, feared some further encroachment upon their own grants, privileges, and customs, and wrote to entreat Bacon to assist in staying the suit, "until they might be truly informed how the town might receive grace and the University no dishonour."[1]

We shall hear of the conclusion a little further on. In the meantime Bacon returned the following answer.

To the Right Worshipful the Vice-Chancellor and others, the Masters and the Heads of the Houses of the University of Cambridge.[2]

After my very hearty commendations, I have received your letter of the 9th of this present December, and have taken care of you rather according to your request than at your request; forasmuch as I had done it before your letter came. This you may perceive by the joint letter which you shall receive from my Lord Chancellor, my Lord Treasurer, and myself. And for me you may rest assured, that nothing can concern you, little or more, nearly or afar off, but you shall have all care out of my affection, and all strength and help out of my means and power, to conserve and advance your good estate and contentment. And so I remain

Your very affectionate and assured friend,

Fr. Bacon.

December 28, 1616.

7.

I cannot speak with any certainty as to the nature of the business to which the next letter relates. But I think it was connected with the cloth question. It appears on the face of it that "the Farmers"—meaning no doubt the Farmers of the Customs—had commenced some proceeding in Chancery which the King wished

[1] 9 Dec. 1616, Add. MSS. 3562, f. 42. [2] Ibid. f. 27 b.

the Lord Chancellor to dismiss—probably as being an encroachment upon his Prerogative; that Bacon thought it unadvisable for the King to interfere—or at least to be seen to interfere; and suggested an arrangement by which it might be avoided. Now I find among the State Papers one undated, but supposed by the calendarer to belong to November 1616, the contents of which are thus described, "Remonstrance of the Farmers of Customs against the intended proclamation for wearing English cloth, as calculated to injure trade so much that they should be obliged to give up their patent."[1] If they resorted to the Court of Chancery for redress, and if the King directed Bacon to move the Lord Chancellor to refuse them a hearing, the following letter to Villiers—now Earl of Buckingham[2]—may very well have been his answer.

TO THE R. HON. HIS VERY GOOD L. THE EARL OF BUCKINGHAM.[3]

It may please your good L.

I pray let his Majesty understand, that although my Lord Chancellor's answer touching the dismission of the Farmer's cause was full of respect and duty, yet I would be glad to avoid an express signification from his Majesty, if his Majesty may otherwise have his end. And therefore I have thought of a course, that a motion be made in open court, and that thereupon my Lord move a compromise to some to be named on either part, with band to stand to their award. And as I find this to be agreeable to my Lord Chancellor's disposition, so I do not find but the Farmers and the other party are willing enough towards it. And therefore his Majesty may be pleased to forbear any other letter or message touching that business. God ever keep your Lordship.

Your Lordship's true and most devoted servant,

FR. BACON.

23 of Jan. 1616.

8.

The monopoly which is the subject of the next letter belongs to a class which is still considered legitimate. Clement Dawbeney had invented a machine for slitting iron bars into rods, and obtained a patent for the sole use of it. Upon complaint made to the Council by a rival bar-slitter that the monopoly was injurious to the public,

[1] See vol. lxxxix. no. 54. Calendar, p. 410.
[2] Created on the 5th of January 1616–7.
[3] Fortescue Papers, orig. own hand.

the patent was called in and referred to the Attorney-General for examination. Here is his certificate.

MR. ATTORNEY'S CERTIFICATE TOUCHING THE PATENT FOR SLITTING IRON BARS.[1]

It may please your Lordships,

According to your Lps reference of the 12th of June last, I have considered the Patent of Clement Dawbeney, gent. for the slitting of iron bars into rods. And I have had before me the patentee that now is, and some of the nailers and blacksmiths that complained against the same, whereupon it pleased your Lps to call in the said Patent. But upon examination of the business I find the complaint to be utterly unjust, and was first stirred up by one Burrell, master carpenter to the East India Company: who hath already himself begun to set up the like engine in Ireland, and therefore endeavoured to overthrow the said Patent, the better to vent his own iron to his further benefit and advantage; whereas the nailers and blacksmiths themselves do all affirm that they are now supplied by the Patentee with as much good and serviceable iron or rather better than heretofore they have been, and that the said Patent hath been of much use to the kingdom in general, and likewise very beneficial to themselves in their trades: and therefore your Lps may be pleased to suffer him quietly to enjoy it without any further interruption; and to this did Burrell himself and the opposers willingly condescend: which nevertheless I submit to the wisdom of this most hon. board.

FR. BACON.

Jan. 27° 1616.

It seems that the patentee was allowed to enjoy the fruits of his invention, and thereby encouraged to improve upon it. For on the 11th of December 1618 a licence was granted "to Clement Daubigny to make a new kind of engine to be driven by water for cutting iron into small bars, for 21 years."[2]

9.

In his "discourse on the plantation of Ireland,"—presented to the King in January 1608-9, when a large portion of the lands in

[1] S. P. Dom. James I. vol. xc. no. 41. Original.
[2] Calendar of State Papers, p. 602.

Ulster had recently fallen to the disposal of the Crown,—Bacon gives his opinion of the kind of persons whom it would be desirable to engage as planters, or "undertakers" as they were then called, and the kind of attractions which it would be necessary to offer in order to allure them. The persons, he thinks, should not be needy adventurers, but "men of estate and plenty." For such persons the prospect of "honour and countenance" would have chief attraction; and among other honours which might be attached to the enterprise, he suggests "knighthood, with some new difference and precedence."[1]

It was, if not in compliance, at least in accordance with this suggestion, that in the beginning of 1611 the order of Baronets was instituted: an order which was to be hereditary; to give rank, precedence, and title, without privilege; to be limited in numbers; and to consist entirely of gentlemen of good family and estate, who should bind themselves to pay into the Exchequer a sum sufficient to maintain 30 foot soldiers in Ireland for 3 years, at the same time declaring on oath that they had not directly or indirectly paid anything else for the honour. To ensure the appropriation of the money so paid to the service of the new plantation, the Treasurer was specially instructed to keep it apart by itself, that it might be "wholly converted to that use for which it was given and intended." The earliest patents were issued on the 22nd of May 1611, while Salisbury was still living, and Bacon only Solicitor; and though the first of these Baronets was his own half-brother, it is not probable that he had anything to do with the measure at that time, unless possibly his pen was used in drawing the patent. But questions arose afterwards on points of privilege and precedency, and a petition of certain Baronets for explanation and declaration, being presented to the King about this time, was referred by him to Bacon for his report. Of this report I find a copy at Lambeth, corrected and signed by Bacon himself, and docketed in Meautys's hand "A certificate for the Baronets:" but without any date. I have thought this the right place for it, because I find from the calendar of State papers that on the 10th of March 1616–7 there issued under the sign manual "Letters Patent declaratory of the dignity of baronet as a mean rank between barons and knights, declaring their precedency, and that of their wives, sons and daughters, over knights, and promising knighthood to the heir of any baronet on attaining his majority:" and this I suppose to have been the King's answer to the petition which was the subject of the following report.

[1] See above, vol. iv. p. 121.

To the King.[1]

May it please your Majesty,

According to your Highness' pleasure signified by my Lord Chamberlain,[2] I have considered of the petition of certain baronets made unto your Majesty for confirmation and extent or explanation of certain points mentioned in their charter; and am of opinion.

That first, whereas it is desired, that the baronets be declared a middle degree between baron and knight, I hold this to be reasonable as to their placing.

Secondly, where it is desired that unto the words *degree or dignity of baron*, the word *honour* might be added, I know very well that in the preface of the baronets' patent it is mentioned that all honours are derived from the king. I find also that in the patent of the Baneretts, which are marshalled under the baronets (except it be certain principals,)[3] the word *honour* is granted. I find also that the word *dignity* is many times in law a superior word to the word *honour*, as being applied to the King himself, all capital indictments concluding *contra coronam et dignitatem nostram*. It is evident also that the word *honour* and *honourable* are used in these times in common speech very promiscuously; nevertheless, because the style of honour belongs chiefly to peers and counsellors, I am doubtful what opinion to give therein.

Thirdly, whereas it is believed that if there be any question of precedence touching baronets it may be ordered that the same be decided by the commissioners marshal, I do not see but it may be granted them for avoiding disturbances.

Fourthly, for the precedence of baronets, I find no alteration or difficulty, except it be in this, that the daughters of baronets are desired to be declared to have precedence before the wives of knights' eldest sons; which because it is a degree hereditary, and that in all examples the daughters in general have place next the eldest brothers' wives, I hold convenient.

Lastly, whereas it is desired that the apparent heirs males of the bodies of the baronets may be knighted during the life of

[1] Gibson Papers, vol. viii. f. 275. Copy with corrections in Bacon's hand: signature original. [2] William Earl of Pembroke.

[3] Precedence was given to the baronet above all bannerets, except those who were made in the field, under the banner, the King being present.

their fathers; for that I have received from the Lord Chamberlain a signification, that your Majesty did so understand it, I humbly subscribe thereunto; with this, that the baronets' eldest sons being knighted do not take place of ancient knights, so long as their fathers live.

All which nevertheless I humbly submit to your Majesty's better judgment.

Your Majesty's most humble
and most bounden servant,
FR. BACON.

This institution of the order of Baronet, is commonly spoken of as a disgraceful proceeding on the part of the King. Why, I have never been able to understand or conjecture. The object was a good one; the conditions were open and honourable; the persons selected were no way unfit or disreputable; the order itself has never fallen into disgrace. To invite contributions and other assistance towards the settlement and civilization of what was then the most unsettled part of Ireland from the class of persons likeliest to do the work effectually, cannot be considered an unworthy act on the King's part. To belong to a family which had borne arms for three generations, to have an estate worth 1000*l.* a year in land, to undertake to pay into the Exchequer 1080*l.* on the special condition that it should be appropriated to the maintenance of order in Ireland, and to receive in return a titular distinction and certain rights of precedency for themselves and their heirs male, with an assurance that the number of persons on whom it should be conferred should be limited to two hundred, cannot be considered as in any way discreditable to the parties dealt with. And if it is true (as it may or may not be) that the Baronets as a body did not play any conspicuous part in the reclamation of Ulster from barbarism, but that their main service was the contribution of the money at the beginning, it is true also that as a body they have flourished and continue to flourish in honour and importance—an order of men much respected, and (though no longer limited in numbers) retaining its full value in public estimation; an order into which men otherwise honourably distinguished think it an additional distinction to be admitted; while those who succeed to it by inheritance are so far from being ashamed of its origin, that they value their title the more the further they can trace it back. Why should a tree which bears such fruit be reckoned a discredit to the planter? I can only suppose that the opinion was first thrown out by somebody who knew that the payment of money was a condition of the patent, but did

not know what it was for or upon what conditions it was received;[1] and that the rest have followed the lead—as people do. It would not be the only instance in which a sneer of Sir Anthony Weldon's translated into the decorous language of respectable historians has taken its place as the judgment of posterity.

10.

These were Bacon's smaller cares at this time. A more important business was to get all the machinery of government into such a train that it might go on smoothly in the King's absence; for his journey to Scotland was now near at hand. The "remembrances" which follow will be found sufficiently intelligible without any comment.

REMEMBRANCES FOR THE KING BEFORE HIS GOING INTO SCOTLAND.[2]

May it please your Majesty,

Although your journey be but as a long progress, and that your Majesty shall be still within your own land and therefore any extraordinary course neither needful nor in my opinion fit; yet nevertheless I thought it agreeable to my duty and care of your service, to put you in mind of those points of form which have relation not so much to a journey into Scotland as to an absence from your city of London for six months, or to a distance from your said city near three[3] hundred miles; and that in an ordinary course, wherein I lead myself by calling to consideration what things there are that require your signature, and may seem not so fit to expect sending to and fro; and therefore to be supplied by some precedent warrants.

First, your ordinary commissions of justice, of assize, nisi prius, oyer and determiner, gaols delivery and the peace, need not your signature, but pass of course by your Chancellor: and your commissions of lieutenancy though they need your signature, yet if any of the lieutenants should die, your Majesty's choice and pleasure may be very well attended; only I should think fit (under your Majesty's correction) that such of your

[1] "Paid, up to March 25, 1614, £90,885. Sent into Ireland, up to Michaelmas, 1613, £129,013." Gardiner, vol. i. p. 560 (note).

[2] Gibson Papers, vol. viii. f. 56. Draught partly in Meautys's hand and partly in Bacon's own. Docketed by Meautys "February 21, 1616. Remembrances for the K. before his going into Scotland."

[3] "four" had been written first.

Lord Lieutenants as do not attend your person were commanded to abide within their counties respectively.

For grants, if there were a longer cessation, I think your Majesty will easily believe it will do no hurt. And yet if any be necessary, the continual dispatches will supply that turn.

That which is chiefly considerable is proclamations, which all do require your Majesty's signature, except you leave some warrant under your great seal to your standing council here in London. It is true that I do not foresee any case of such sudden necessity, except it should be the apprehension of some great offenders, or the adjournment of the term upon sickness, or some riot in the city,[1] such as hath been about the liberties of the Tower, or against strangers, etc. But your Majesty in your own great wisdom may perhaps think of many things that I cannot remember or foresee; and therefore it was fit to refer those things to your better judgment.

Also my Lord Chancellor's age and health is such, as it doth not only admit but require the accident of his death to be thought of; which may fall in such a time, as the very commissions of ordinary justice before mentioned, and writs which require present dispatch, cannot well be put off. Therefore your Majesty may be pleased to take into consideration, whether you will not have such a commission as was prepared about this time twelvemonth in my Lord's extreme sickness for the taking of the seal into custody, and for the seal of writs and commissions for ordinary justice, till you may advise of a Chancellor or Keeper of the great seal.

Your Majesty will graciously pardon my care, which is assiduous; and it is good to err in caring even rather too much than too little. These things, for so much as concerneth forms, ought to proceed from my place as Attorney, unto which you have added some interest in matter, by making me of your privy council. But for the main they rest wholly in your princely judgment, being well informed; because miracles are ceased, though admiration will not cease while you live.

11.

Before the King set out on his journey to Scotland he had two

[1] In the MS. after "city" there is the mark of the beginning of a parenthesis, but the end is not marked, and I am not clear where it should come.

or three affairs to despatch, some of more moment and some of less. Among those of less moment was his answer to the petition from the townspeople of Cambridge for a new Charter, which had so alarmed the authorities of the University.[1] More than a month had passed since Bacon promised that their interests should be cared for, and the question was still unsettled. By way of reminder, they wrote in February the following letter to the Earl of Suffolk, Chancellor of the University,[2] which explains the nature of their apprehensions.

Right Honourable,

The confidence which the townsmen have in obtaining their charter and petition makes us bold and importunate suitors to your Honour, by whose favour with his Majesty and protection we again humbly entreat the University and ourselves may be freed from that danger which by them is intended to us. By their own reports it is a matter of honor and advantage for which they sue. When they were at the lowest and in their meanest fortunes they ever showed themselves unkind neighbours to us, and their suits with us within these few years have caused us to spend our common treasury and trouble our best friends; and therefore we cannot expect peace amongst them when their thoughts and wills shall be winged and strengthened by that power and authority which the very bare title of a City will give unto them. Since our late letter to the Right Honourable Lord Chancellor, your Honour, and his Majesty's Attorney-General, we (being better informed of the course they take and of their confidence to prevail at the end of the next term) have sent letters from the Body of the University the King's Majesty, the Lord Chancellor, and others our honourable friends, shewing them of our fear, and their purpose, and to entreat them to join with your Honour and us to his Majesty to stay their suit before we be driven to further charge or trouble in entertaining counsel or soliciting our friends. Thus humbly entreating your Honour to pardon our importunity and often soliciting your Lordship in this business, with our earnest prayers to the Almighty for your Honour's long life and happy estate, we end, this of Febr. 1616.

Your Honour's in all duty to be commanded.

The same apprehensions were expressed more officially and elaborately, though less intelligibly, in two Latin letters, one addressed to the King[3] on the 2nd of February, the other to Bacon on the 11th.[4] They are written in the grandiloquent style which modern

[1] See above, p. 131.

[2] Sloane MSS. 3562, f. 43.

[3] Printed in Leland's *Collectanea*, vol. iv.

[4] Sloane MSS. 3562, f. 93. According to the manuscript this letter was dated "e Senatu frequenti nostro, tertio Idus Februarii 1616," and addressed "Honoratissimo Domino Francisco Domino de Verulamio, Equiti Aurato, summo Angliæ Cancellario" etc. which (if the date be correct) was impossible. But I suppose it was really addressed to Sir Francis Bacon, and the address given in the manuscript (which is only a collector's copy) was inserted by the transcriber at a later time, when those titles belonged to him.

scholars affect when they deliver themselves in Latin, and contrast unfavourably with their more simple and business-like English. But a specimen is necessary to explain the style of the answer, and I will take that part of the letter to Bacon which contains the substance of the complaint.

After a complimentary exordium, in which he figures as a Hercules, a Mecænas, and a harbour of refuge, they proceed to business.

"Imminet jam nostræ Mantuæ incursionis periculum a vicinâ et contigui liminis Cremonâ, quæ sub ementitæ dignitatis larvâ ac prætextu veræ ac veteri dignitati nostræ insidiatur; nec vanus nobis subest suspicionis metus, ne dum surgant Civitatis hujus mœnia mox Academiæ parietes injurioso (sed occulto) pede conculcentur. Esto quidem per nos (imo sit per vos) Cantabrigia Civitas florentissima (cur enim honorem hunc ipsi nobis invideamus?) sit tamen (ita uti nomen ei olim in archivis cluet) *Civitas Literatorum*,[1] non illiberalium opificum; qui dum majores nido pennas extendunt, et Civitatis (quam ambiunt) et Universitatis (cui invident) dignitatem eunt delibatum. Honorem nobis obtendunt, et auctiorem Oxonioque rivalem splendoris cumulum? Offuciæ meræ, et hamatum lenocinium. Blandiens ventus nos non inducet, quin tempestatem et nimbum expectemus. Ut aves semel deceptæ cæteros etiam cibos viscatos credunt, sic ab impostură ut ut speciosâ, quod etiam bonum sincerumque videtur, esse id tamen omne dilutum atque incrustatum haud perperam suspicamur. Nos macti titulis illis ac municipiis quos Principum Diplomata et domina rerum Consuetudo longâ annorum serie firmatos nobis indulserunt, in propriâ pelle quiescimus; haud ignari noxios interdum, curiosos sæpe, semper suspectos esse Novatores, qui ut aliquid sui videantur afferre etiam recta mutant in deterius. Tu vero, amplissime Heros," etc.

The King's decision was announced on the 26th of February. I have not seen specimens enough of his Latin style to judge whether or not the letter which conveyed it was of his own composition. There is no doubt that he had scholarship sufficient for a personal correspondence with the University in which he would not have shown to disadvantage; and it would not have been unlike him to make use of such an occasion to display it. But this was a thing in Bacon's line too, and knowing as we do that he was one of the three Commissioners to whom the question had been referred for consideration,—and in all probability the most active of them (for neither the Lord Chancellor nor the Earl of Suffolk were likely to take such a business out of his hands),—and that he had taken a special interest in it, it is not unlikely that when he obtained the King's decision upon the report he received his command to draw up

[1] *Literarum* in MS. But it will appear from the King's answer, next page, that it should be *Literatorum*.

the answer. I have thought it best therefore, as on other occasions of the same kind, to give the reader the means of judging for himself. The letter in question has been printed in the Cabala (ed. 1663, p. 257) but with so many errors that it is hardly intelligible; the mistakes being those of a man who was not acquainted with the language. In Leland's *Collectanea* there is a better copy. But the best I have seen is in the Sloane MSS. 3562. f. 99; from which it is here printed. It appears to have been taken from the original, for the signature is written in imitation of James's own.

JACOBUS, DEI GRATIA MAGNÆ BRITANNIÆ, FRANCIÆ, ET HIBERNIÆ REX, FIDEI DEFENSOR, ETC. ACADEMIÆ CANTAB. COMMUNI, SALUTEM.

Si jus Civitatis impetret a Nobis Cantabrigia veremini ne, æmulæ urbis potentiâ crescente, minuatur Academiæ securitas. Sat erit apud Nos metus vestri indicium fecisse. Nec enim tam vobis convenit Academiæ periculum deprecari, quam nobis sponte nostrâ quicquid in speciem illi noxium sit avertere. Glorietur Urbs illa se a majoribus nostris olim electam doctrinarum sedem, ingeniorum officinam, sapientiæ palæstram: Quicquid his titulis addi potest minus est. Non honestatur plebeiâ Civitatis appellatione Musarum domicilium. Vel sane literatorum dicatur Civitas, vel quod in villæ nomine vile est incolarum tegatur celebritate. Hæc ejus sint privilegia: Academiæ dignitatem comiter observare, cujus frequentiâ facta est se ipsâ major: Affluentes bonarum artium studiosos amice excipere, quorum concursu ditata est; Literarum denique honori ancillari, unde hæc illi nata est fœlicitas. Hæ artes quibus crevit tenendæ, non aucupanda titulorum novitas, incerti eventus. Facessat popularis vocabuli fastus, unde certa oriatur æmulationis necessitas, quæ eò turpior urbi est futura quo majori erga Academiam est obstricta reverentiâ. Nolumus sacrum illud Musarum asylum minaci Prætoris ense temerari, nec strepere tetrica Edicta ubi septemgeminus vestri chori auditur concentus. Satis est in vetere purpurâ invidiæ; nova pompa tam illi futura est supervacua quam vobis suspecta. In nostrâ solius tutelâ est, post Deum Opt. Max. Alma Scientiarum Mater: nostro fovebitur sceptro indefessa ejus fœcunditas. Non abortiet ad prætorii gladii terriculum.[1] Nullum honoris titulum Cantabrigiæ

[1] "Ac nos quidem purpuram iis haud invidemus, sed ensem metuimus." Letter from the University to the King.

indulgemus qui cum Academiæ sollicitudine junctus sit. Valete. Dat. e palatio nostro Westmonasterii, 4°. Calendarum Martiar. Año D^ni 1616.

JACOBUS R.

Of the joint letter which Bacon told them they would receive from the Lord Chancellor, the Lord Treasurer, and himself,[2] I have not found any traces. It may have been put aside and the King's letter sent instead, or it may have gone along with it. However that may be, it is plain that the King's letter contained the official and final answer to their suit, and fully acquitted Bacon of his promise that the interests of the University should not be forgotten.

12.

Among the affairs of *greater* moment which the King had to despatch before he went away, was the communication to his Council of the progress of the negotiation for a marriage between Prince Charles and the Infanta of Spain. This was an affair with which Bacon had hitherto had nothing to do. It is doubtful whether he even knew, otherwise than by rumour, that such a negotiation was on foot. But he was now one of a selected number of Privy Councillors whose advice was to be taken upon it, and in order to understand the conditions under which their advice was given it will be necessary to explain what had been done in it up to this time.

The project of a marriage between the Prince of Wales and the Infanta had been first moved from Spain in 1604, just after the conclusion of the treaty of peace; but with a condition which could not be listened to—namely that Prince Henry, still a little boy, should be not only brought up a Catholic but sent to Madrid for his education. It was renewed again on the part of England after the dissolution of the Parliament in 1610, with a view no doubt to the relief of the Exchequer by the marriage-portion; but upon an intimation that the Prince must first become a Catholic, was again broken off at once. This second breach taught the Spanish statesmen that they were going a little too fast. The persistent demand of such a condition made James look to France for a son-in-law, and so animated the anti-Spanish party in England that the Duke of Lerma, fearing war, thought it expedient to come forward with fresh overtures, in a more palatable shape, for a match with Spain;

[1] Leland's *Collectanea*, vol. iv. p. 397 [from the MS. collections of the Rev. Mr. Baker, late of Saint John's College, Cambridge].

[2] See above, p. 133.

and sent over his ablest diplomatist to England with that bait on his hook to win her back from the French alliance. Gondomar—to call him by the later title by which he is best known—the man selected for this office, proceeded very cautiously. When pressed by Somerset to use his influence with the King for the very purpose he had come for, he declined to interfere: and it was not till another failure to obtain supplies from another Parliament had made the marriage-portion a matter of national importance, and the King himself raised the question, that he allowed himself to show any interest in the matter. In the mean time he had learned enough, if not about England, at least about the English court, to know that if the negotiation was to proceed far enough even for purposes of dalliance and delusion, it must not begin like the last with a declaration that the conversion of the Prince would be held a preliminary condition. Taking it for a certainty that if the stringency of the laws against the Catholics were once mitigated the conversion of all England would follow, he advised Philip to confine his demand for the present to that. Now to the mitigation of these laws James had no personal objection. Though a sound Protestant himself upon study and conviction, he knew too much of what was to be said on both sides to share the popular feeling against Papists; and there was probably no man in England less disposed to punish anybody for peaceably holding an old and respectable opinion, though it were not his own. The gravest objection to the course proposed —perhaps in his eyes the only objection—was its unpopularity with the House of Commons. But if it was good in itself it may be fairly questioned whether that objection ought to have been held conclusive. The responsibility for the government of the country was not then vested either formally or virtually in the House of Commons, but in the King and Council. For the present all that was asked was an engagement that the penal laws against the Catholics should be allowed to sleep,—that breaches of them should be connived at, or penalties remitted; and with this understanding Sir John Digby was sent to Madrid before the end of 1614 to manage the negotiation. In the following March the Spanish proposals were embodied in a series of articles, which were forwarded to England, and after some discussion and modification accepted as a basis of negotiation. Prince Charles was not yet fifteen, so there was no hurry: and the business proceeded slowly through many interruptions. The Pope's dispensation, or the promise of it, (without which Spain could not proceed) had to be obtained. A junta of theologians had to be established at Madrid to whom doubts might be referred or inconsistencies imputed. The English negotiations for a marriage with a

daughter of France had to be handsomely broken off. Somerset, in whom, with Sir Robert Cotton as an ally, Gondomar fancied he had found the very instrument he wanted for the conversion of England, was arrested on a charge of complicity in the murder of Overbury, and disappeared from the stage, not to appear again. A quarrel between Spain and Savoy involved James in a new negotiation which had nearly brought him to blows with Spain. But in spite of all these delays and interruptions the marriage-treaty had made progress enough by this time to be ripe for consideration in Council: and on the 2d of March, 1616-17, the King himself made a communication—not however to the whole board, but to a selected number of them—of which the following note has been preserved. Though not an official document it has the appearance of a copy made from some authentic report; and as the interpretation of it which seems to me most natural has been disputed, I give it entire, as I find it.

THE SUM OF HIS MAJESTY'S SPEECH TO SOME OF HIS COUNCIL ON SUNDAY THE 2D OF MARCH, CONCERNING THE PRINCE'S MARRIAGE, AND SOME OTHER OCCURRENCES,[1] ETC.

That their Honours remember that when he spake last to them and to the rest of the Council upon the motion concerning his journey into Scotland, among other reasons which he delivered why it behoved him to go this year, one was that if he lost the opportunity of this year his affairs would grow so fast upon him as that he should not be able to attend unto it afterwards, especially for two points of great moment; the one the matter of Parliament, which the next winter would be time for him to think upon: The other was the marriage of his son; who being now sixteen years of age and past, and his only son, course of nature would require him to bethink himself timely: for the marriages of great Princes are not concluded suddenly; and besides this, the state of his affairs might give him cause to make the best use of the marriage of his son, thereby to get some good portion towards the payment of his debts.

And concerning the marriage, his pleasure was to let them understand that for a good time past there had been overtures made unto him on the part of Spain for a marriage for his son the Prince, and so pursued first to the Earl of Somerset, and since to Sir John Digby, both while he was in Spain his Majesty's ambassador and since his being of his Council, as is greatly to his honour, and with great hopes of a large and abundant portion. So as his Majesty could do no less than hearken unto it, and make some trial of the success. And being to send to the King of Spain for other occasions, as well about the matter of the Turkish pirates, which were so troublesome and dangerous to all merchandise, as for the matter

[1] Harl. MSS. 1323. f. 263,

of Savoy, he thought that by the same occasion the matter of the marriage might be by him there moved and their intentions thereby fully discovered: for that hitherto, howsoever the matter of the marriage might be by him the ambassador of Spain here and the Duke of Lerma there,[1] in their treaties they had not spared the King their master's name and signified that the marriage was a thing by him desired above all other worldly things, yet Sir John Digby had been so discreet in his carriage as never to use the King his master's name, but only spoken in the quality of a private gentleman and a wellwisher to such a match.

His M. said that in the consideration of this business the two principal objects were the one spiritual and the other temporal. And in that which was spiritual, namely the matter of Religion, his M. had ever showed himself so stiff as they had no reason to hope for any advantage thereby: For first when the matter was moved for the last Prince Henry, they then said in Spain that they saw not how it could be done without the said Prince altered his religion and became Catholic; which his M. then rejected with scorn, and so had done often since, wheresoever he saw any high point stood upon in matter of Religion.

But that now of late the ambassador here and the Duke of Lerma had so far declared themselves, as they did neither expect alteration in Religion in the Prince nor any liberty or toleration for his M.'s subjects, nor other course in matter of Religion which might be displeasing to his M.'s subjects, nor any alteration in the course of his affairs or correspondencies with Foreign Princes, whereby he might lose or abandon them.

And so for the other point which his M. called temporal, the offers were yet in general, but with great assurance of full contentment therein.

That which his M. now recommended to the hon^ble^ of his Council above named was that they should hear, etc., Sir John Digby make report unto them of the whole course that had been between the Duke of Lerma and him, while he was in Spain, and by his letters since his being of his M.'s council here, and out of it collect, he[2] did not find that there was so much ground given for his M. to hope of a good issue, as that his M. might begin the motion, then in what manner the same should be reposed, so as his M. might with the soonest discover the sincerity of their intention, and what particulars it would come unto as well in matter of Religion as in matter of portion, and so discern how far he might build any foundation to his affairs upon this Treaty.

[1] So in MS. The words "the matter of the marriage might be by him" seem to have been repeated from the preceding line. Strike them out, and also "they" in the following line (which may have been inserted to complete the construction), and the remaining words give a very good sense.

[2] So in MS. Mr. Gardiner proposes to substitute 'whether they' for 'he.' But though you may "collect" whether *another* man has or has not found a thing, I think no man would be asked to "*collect* whether he did not find" a thing himself. I suspect that a whole clause has dropped out, to this effect: "and out of it collect [whether there was sufficient hope of sincerity of proceeding on the part of Spain; and if they] did not find," etc. It can hardly be doubted that the "then" which follows—"then in what manner," etc.—answers to an "if they did not" going before.

For the other two points of the Piracy and Savoy, his M. said that being to speak the next day with his whole Council of other matters, he would then speak of these things and signify his pleasure therein.

After which speech of his M. delivered to the Councillors above named, they met twice, and the first day heard Sir John Digby make report of the whole proceedings that had been had, as well by him in Spain as here by the Earl of Somerset; and likewise by him both with the Duke of Lerma and the Spanish ambassador resident here since his return out of Spain; and opened likewise how far he had at his being in Spain proceeded in the point of Religion, how far some of the clergy there had yielded, and what demands they had wished to be made, what exceptions he had taken to them, and how they were afterwards qualified. At the second meeting, their Honours upon that which they had then heard did by consent agree that his M. might with honour enter into a treaty of marriage, and enter openly, and by giving commission under his great seal; for these reasons.

First, that the overture having first been made from Spain, and proposed and pressed by them in an extraordinary manner, his M. had honour thereby, for that for the most part such motions did come from the masculine part; but in this his M. had been first accepted; whereby he had this advantage, that if it break upon any unreasonable terms on their sides they would draw upon themselves a great tincture[1] of ignoble and unworthy proceeding.

Secondly, that his M. had as much assurance of good success as in such a case could be had; for as for the temporal consideration, it had been said that his M. could demand nothing within compass of reason which should not be granted; and as for matter of Religion, that they would strive to go as far therein to give his M. satisfaction as the King of Spain with his honour and respect to Religion could possibly go, his M. doing the like on his part with the same cautions.

Thirdly, for that it was no dishonour to any Prince to seek marriage of another Prince of his own rank, whatsoever the success did prove. But in this it was very likely that the breach, if any were, could not be but upon some material point of Religion; which if it fell out would not be any dishonour to his M. but on the contrary a great reputation both with his subjects here at home and with his friends of the reformed Religion in foreign parts.

This being their Honours' opinion, they appointed Mr. Secretary Bonde to deliver it to his M. which was done the same day, being Ash-Wednesday, in the evening, the 5th day of March; which his M. having heard did approve. But withal the said secretary was willed to say to his M. that for particulars either in matter of portion to be demanded, of dower to be observed, or for points of Religion to be insisted on; they had not taken any consideration, because they did not understand that his M. had given so far commission.

Whereunto his M. replied that they were to have further consideration

[1] So in MS.

of these particulars, as well of the one sort as the other, and deliver their opinions unto him; whereupon their Honours appointed another meeting on Friday following, the 7 of March, to confer thereof.

The result of Friday's conference is not known. But it could only have applied to details. That the treaty of marriage should be proceeded with, was decided with the clear consent of those members of the Council to whom the question had been referred, and upon a full review of all the circumstances. Bacon was one of these,[1] and may be fairly held responsible for concurring in the affirmative opinion. Now we have seen that about a year and a half before, he had said in a letter to the King that though the *rumour* of a match with Spain might be of use, he "should not easily advise that it should be really effected;"[2] and in what respect, it may be asked, was the case changed so as to justify a change in his opinion? The change, I imagine, was not so much in the case itself as in his knowledge of it. It is one thing to advise a man against a particular marriage when you suppose him to stand quite free, and another when you know him to have given the lady just reason to expect an offer. Till Bacon heard Digby's account of the state of the negotiation he did not know how far the King was committed. The question now was not whether it was wise to commit himself so far, but being so far committed, how it was best to proceed. Bacon's objection to the marriage was founded probably upon the unpopularity of Spain with the majority of the House of Commons. In the eyes of the Puritans an alliance with Spain was an alliance with Antichrist, and believing as he did that the only adequate remedy for those pecuniary embarrassments which were making all the business of Government so difficult must come from Parliament, he feared that the effect would be to postpone it: the Lower House would be less than ever in a humour to vote supplies. That the popular feeling was in great part superstitious and irrational did not make it the less formidable; and I know no reason for supposing that he thought better of the match in point of policy than he had done before. But the King,—who governed in these matters for himself,—had already advanced so far (with the zealous assistance, be it remembered, of no less a man than Sir John Digby, however originally against his advice) that he could not easily retreat without inconsistency and discredit; and the best that could now be done was to manage the conditions so as either to disarm the

[1] The Earl of Bristol seems to speak of "the commissioners for the marriage" (of whom Bacon was certainly one) as the same persons to whom he explained the state of the negotiation. See 'Earl of Bristol's Defence of his Negotiations in Spain.' Camd. Soc. Miscellany, vol. vi. p. 9. [2] See Vol. V. p. 185.

alliance of all danger or to break it off in good time and on good terms. Now a marriage with Spain, though unpopular in England, was not necessarily a bad thing in itself. Carried out fairly on both sides, it might have been good for both. If the Spanish government could have seen and accepted the fact that England had become a Protestant nation, and not merely a nation governed by a sovereign who for politic reasons professed himself a Protestant; if they could have believed that Protestantism had as much faith in its own gods as they had in theirs; if they could have been content to aim at the relief of the English Catholics from oppression without aspiring to re-establish them in authority; and if they could have cordially united with England in an endeavour to compose the religious dissensions of Europe by enforcing equitable conditions between the contending parties; the alliance might have proved a fortunate thing for the world. The Catholics of England, ceasing to be dangerous, would have been less persecuted; and such measures for the good of Europe as England and Spain would have concurred in taking would have been measures for the good of Europe. We know now that this was not to be. We know now that the Spanish statesmen utterly misunderstood the case; that their wisest councillors were under a fixed impression that the re-establishment of Catholicism in England (the highest service they could render to God and his Church) might be effected by a Royal Proclamation, and that a Royal Proclamation for the purpose might be obtained by a little cajolery and bribery. We know that they were trying from first to last to manage the negotiation in that spirit to that end. But the English councillors at that time, whatever they may have apprehended, had no right to *assume* all this. It was enough to be prepared for the contingency. The professions of Spain, so far, were fair; the offers liberal; the demands not unreasonable. So long as England was asked to do nothing in return except what would be good in itself,—and a relaxation of the severities which the Gunpowder Plot had brought upon the Catholics, under conditions tending to make them loyal, would have been a good thing,—there was no reason why the proposal should not be entertained. If in the course of the negotiation they should alter their terms and increase their demands, it would still be open to refuse them, and (if they insisted) to break off the treaty. And a breach upon that ground—especially if it turned upon a point of Religion, as it probably would—far from being a disadvantage, would leave the Government in a better position than it stood in now; for it would be a popular quarrel, and would give them the support not only of the Parliament and people at home, but of Protestantism through Europe. They held it, in

short, to be a very safe enterprise; for if it succeeded, the conditions would be honourable and advantageous; if it failed, the breach would be honourable and advantageous.

Such I take to have been the substance of the advice which these councillors gave the King.[1] We shall see as we proceed how Bacon tried to give effect to it.

13.

The part which he took in this deliberation was probably his last service as Attorney General. On the 5th of March, the Lord Chancellor, who had long been begging to be relieved from the cares of office, succeeded at last in inducing the King to accept his resignation. He was allowed to deliver up the Great Seal on the 6th, and on the 7th it was given, with the title of Lord Keeper, to Bacon. Contemporary letter-writers mention several competitors for the appointment, and name the sums they offered for it. But such stories are valuable only as evidence of what people were ready to believe. Bacon considered himself indebted for it to the disinterested friendship of Buckingham; and it may well be believed that if the Favourite had used his influence for another, the chances would have

[1] Mr. Gardiner maintains that "the points of religion to be insisted on" related only to "the details of the treaty, such as,—at what age the children should be taken from the care of their mother, what jurisdiction should be allowed to the ecclesiastics of her household, and so on" (Fraser's Magazine, May 1871); and represents the consultation as a "farce," because first, the general question of the desirableness of the marriage was not laid before the commissioners at all; and secondly, the question of religious toleration was not brought before them in any such shape as to make it possible, without going out of their way, to express their opinions about it.

But after much discussion of the matter with him both in print and writing, I remain incredulous. The question of the desirableness of the marriage seems to me to be necessarily involved in the question whether it was desirable to enter into a treaty with the object of concluding the marriage. And if the question of religious toleration did not come before the commissioners, it was only because *the demand for toleration having been withdrawn*, it did not form part of the case. It might no doubt be renewed; and if renewed, might be a just occasion for a "breach upon a material article of religion," and about this they *did* go out of their way to express their opinion. But whether they expressed an opinion on it or not, I do not see how they could have helped taking the subject into *consideration*. What was to be laid before them was *the state of the negotiation*; and as the withdrawal by Spain of the demands concerning religion was specially mentioned as the difference in the present case which induced the King to ask their advice upon it, and distinguished it from former occasions when it had been rejected at once without reference to the Council, I do not see how these demands could have helped forming part of the case which they had to consider. The question whether the Prince should marry the Infanta involved the question whether he should marry a Roman Catholic wife, and thereby incur whatever demands for concessions and toleration to the Catholics might be expected to follow; and so far were these from being thought unimportant that Digby was expressly forbidden to approve of anything new without first reporting and receiving directions; the matter being thought too important to be left to the discretion of a single man.

been against him. The next letter, written on the same day on which he received the seal from the King, expresses his sense of the obligation.

MY LORD KEEPER TO MY LORD OF BUCKINGHAM UPON HIS BEING CHOSEN LORD KEEPER.[1]

My dearest Lord,

It is both in cares and kindness, that small ones float up to the tongue, and great ones sink down into the heart with silence. Therefore I could speak little to your Lordship to-day, neither had I fit time: but I must profess thus much, that in this day's work you are the truest and perfectest mirror and example of firm and generous friendship that ever was in court. And I shall count every day lost, wherein I shall not either study your well doing in thought, or do your name honour in speech, or perform you service in deed. Good my Lord, account and accept me

Your most bounden and devoted friend
and servant of all men living,
FR. BACON, C. S.

March 7, 1616.

[1] Gibson Papers, vol. viii. f. 58. Fair copy. The heading is from the docket, which is in Meautys's hand.

CHAPTER IV.

A.D. 1617. MARCH–JULY. ÆTAT. 57.

1.

THOSE of my readers who complain that I have told them nothing about Bacon's married life[1] (unreasonably, I think; seeing that I have told all I know) will be glad to hear that before the King set out on his Scotch expedition the following warrant was prepared (or proposed) for his signature.

A WARRANT FOR CONFERRING A DIGNITY UPON THE LADY BACON, WIFE TO OUR TRUSTY AND WELL-BELOVED SIR F. B., ETC.

James Rex.

Trusty and well-beloved, we greet you well. These are to command you that you forthwith cause a book to be drawn fit for our signature, declaring our will and royal pleasure to be that the Lady Bacon, wife to our trusty and well-beloved Counsellor Sir F. B., knt., L. Keeper of our Great Seal, shall be ranked in place and precedency in all places and at all meetings, as well public as private, next to the ladies or wives of the Barons of this our realm. Wherein we will command and express our royal pleasure to be, that all ladies of what estate or degree soever, under the estate or degree of a Baroness, wife or widow to a Baron of this our realm, shall hereafter at all times and in all places permit and suffer the

[1] See Fraser's Magazine, vol. lxxix. p. 748.—I see that an expression which I used on this subject has been misunderstood by two or three critics, and as the misunderstanding may be general, I take this opportunity of correcting it. When I said (Vol. III. p. 292) that "twenty years of married life in *which the gossips and scandalmongers of the time found nothing to talk about* have a right to remain exempt from *intrusion*," I did not mean to forbid *enquiry*, or a full report of the results of enquiry. I should be glad to know, and should certainly have felt bound to report, as much about Bacon's married life as can be learned. The "intrusion" I deprecated (as I thought the context sufficiently explained) was the intrusion of gossip and scandal—injurious surmises without any enquiry or any authority or any provocation, such as we find in Lord Campbell (vol. iii. p. 49, ed. 1857) and his reviewer (Edin. Rev. vol. lxxxiii. p. 313), who nevertheless was a remarkably amiable man.

said Lady Bacon to have, take, and enjoy the place and precedency before them and every of them, And this shall be your warrant.

Given under our at our Palace of Westm^r. the day of March in the 14th year of our reign of E. F. & I. and of Scotland the 50th.

To Sir Harry Yelverton, our Attorney General.[1]

Beyond this I regret to say that my information does not go. Whether the warrant came directly from the King, at his own or Buckingham's suggestion, as a mark of respect which Bacon would value; or was drawn up by Bacon himself under an impulse of conjugal affection, with the intention of asking the King to sign it;—whether it was laid before the King after all, and, if it was, whether the King did ever sign it;—whether Lady Bacon had, took, and enjoyed the place and precedency of other ladies under the degree of Baroness, and, if she did, whether any of the other ladies disliked it;—all these questions I would willingly answer if I knew how. But I have not as yet met with the means.

2.

Bacon was now the principal officer of the kingdom, except the King; and as he made it his business to keep the King continually informed in his absence of all that passed in Council, his letters (of which he was now more careful to preserve copies) are frequent and continuous enough during the next six months to be sufficiently intelligible with very little explanation.

The first business of which I find any record under his hand relates to the project, recommended originally by Sir Arthur Chichester, for erecting staple towns in Ireland for the exportation of wool; upon which we have seen Bacon's report in the first chapter of this volume. It is a letter from the Council to the Lord Deputy of Ireland, a copy of which is preserved among the Carew manuscripts in the Lambeth Library.

THE COUNCIL TO THE LO. DEPUTY OF IRELAND. 16 MARCH, 1616.[2]

It is not unknown to you that for many weighty reasons highly concerning the good of both his Ma^tys kingdoms of

[1] Add. MSS. Br. Mu. 4259. Copy in the hand of John Locker. Not said whence taken.

[2] Lambeth MSS. 617, f. 194.

England and Ireland for preventing the exportation of wool out of that realm into foreign parts, a course was thought upon at your last being here, advised by yourself the Lo. Chichester, and some others to whom that business was recommended, for erecting of certain staple towns in Ireland that should have sole power and authority to transport the wools of that realm, such as were not manufactured in the kingdom, to other Port Towns in England that should be assigned as correspondents to receive that commodity from thence. Hereupon the business being well projected by you and the rest of the Committees with many necessary cautions and provisions, it had besides sundry other references; first to me the Lord Keeper, then his Ma^ty^s Attorney General, and afterwards to other persons, by reason of former employment well experienced in the state of that realm. Upon all which several references we received certificates and opinions, which we send to your Lp. herewith. We are now therefore to let you know that upon mature and grave advertisement the business hath received a full approbation at the Board and is ready for execution. The old staple towns have been dealt withal, as we understand, by those that were the last year sent from hence and were employed by your Lp. for that purpose; which towns, as we hear, are not so conformable and willing to receive the conditions of this new staple now to be established, as is fit they should be; wherein if they persist, or shall refuse to release all such customs and forfeitures as are given them by the statute, being hereunto first moved by your Lp. and that Council, whereof you will advertise us, his Ma^ty may (if it please him) take from them the benefit of the *non obstante* and so make their privileges of no use unto them, until upon their conformity he shall vouchsafe to restore them to their exemption again. To this end your Lp. is first to cause a proclamation forthwith to be published, for restraining generally the exportation of all sorts of wools, woolfells, morlins, shorlings, lambskins, woollen yarns and flocks; the two first sorts being expressly forbidden by statutes, and for the rest (the statutes being not so clear) his Ma^tys^ proclamation may supply them; so as all being once equally prohibited, his Ma^ty may release it again to the new staple towns by a *non obstante* in their charters, as also by altering the proclamation afterwards with a saving and exception to the old staplers, if their conformity hereafter

do deserve it. Thus your Lp. sees the course which we think fit to be taken there. For the drawing up of the new charter and the rest which is to be acted here, order is given for it and they shall be dispatched with all expedition. And so, etc.

Lo. Archbishop of Canterbury.	
Lo. Keeper.	Lo. Vi. Wallingford.
Lo. Privy Seal.	Lo. Bp. of Ely.
Lo. Steward.	Mr. Vice Chamberlain.
Lo. Chamberlain.	Mr. Secr. Lake.
E. of Arundel.	Mr. of the Rolls.

March 16, 1616.

In pursuance of this order, a letter was written to Sir Henry Yelverton on the 29th March, requiring him "to draw Bills enabling Londonderry, Drogheda, Karrickfergus, and Youghall in Ireland to be staple towns, with powers and conditions according to the several certificates of the Lord Keeper and others."[1] And Patents were granted accordingly. Experience did not however in this case make good the common saying, quoted by Sir Edward Coke.[2] If "riches followed the staple," it seems that the country did not come in for its share. Of eight towns to which the privilege was offered, seven refused to accept it; and before three years were out the Lord President and the Council of Munster grievously complained of the working of it to the Lord Deputy and Council of Ireland. The Lord Deputy and Council of Ireland recommended it to the Council of England for redress;[3] and the Commissioners to whom the Council of England referred the question summed up their report as follows—

"Upon consideration of the whole matter, which hath been opened at large and heard divers times before us,

Forasmuch as the Lord Deputy, that amongst others laid the foundation of this new erection, hath out of his knowledge and experience there certified your Lordships that how fair soever the face of the staple appeared at first, the proceeding hath discovered it to be full of fraud and inconvenience, producing no part of that good it promised, but working contrary effects, to the hindrance of numbers that prospered and now

[1] Lamb. MSS. 617 f. 195. [2] See above, Chapter I. p. 1.

[3] On June 30, 1619, the Council in Ireland wrote to the Council in England, "that the staple business had produced none of the good it promised:" enclosing a letter addressed to them by several persons, on the 25th of May, containing the reasons against these staple towns. Lamb. MSS. 617, f. 196-198.

are in danger to be overthrown; we are of opinion under your Lordships' good favour, that until the manufacture be a little better spread in the country and the people more familiarly acquainted with that kind of improving their own labours to their own benefit, that there may be free buying and selling of wools to be disposed as shall be requisite. And for such wools as shall be brought to Youghall after offer made of the said wools to the staplers, and upon delay thereupon made either under colour of price or otherwise, that liberty be granted freely to transport the same upon good and sufficient bond in the Custom House there to bring the same wools into England and return certificate thereof: which course of taking good bonds is to be held in all other port towns."[1]

3.

I explained at the end of the last chapter what I conceive to have been Bacon's position with regard to the Spanish match. The King was too far committed to retreat without further cause. The best course was to continue the negotiation, and endeavour to guide it to some good end; for the benefit of Christendom, including both Protestants and Catholics, if it was to go on; of England and Protestantism, if it was to be broken off. At present it seemed to be going on; and we are now to see what kind of good Bacon proposed to get out of it, and how.

To the King.[2]

May it please your most excellent Majesty,

My continual meditations upon your Majesty's service and greatness have amongst other things produced this paper enclosed, which I most humbly pray your Majesty to excuse, being that which, in my judgment, I think to be good both *de vero* and *ad populum*. Of other things I have written to my Lord of Buckingham.[3] God for ever preserve and prosper your Majesty.

Your Majesty's humble servant,
most devoted and most bounden,
Fr. Bacon.

March 23, 1616.

[1] Report to the Council, 10 Oct. 1619, Signed G. Carew, Fulke Greville, Geo. Calvert, Jul. Cæsar, T. Edmundes. S. P. Leland.

[2] Gibson Papers, vol. viii. f. 60. Copy. Docketed by Meautys, "My Lord Keeper to his Majesty with some additional instructions for Sir John Digby."

[3] In Stephens's catalogue (Add. MSS. 4259) among the "letters to Sir G.

A REMEMBRANCE ADDITIONAL TO THE INSTRUCTIONS OF SIR JOHN DIGBY.[1]

Besides your instructions directory to the substance of the main errand, we would have you in the whole carriage and passages of your negotiation, as well with the King himself as the Duke of Lerma and Council there, intermix discourse upon fit occasions, that may express ourselves to the effect following:

That you doubt not but that both kings, for that which concerns religion, will proceed sincerely, both being intire and perfect in their own belief and way: but that there are so many noble and excellent effects, which are equally acceptable to both religions, and for the good and happiness of the Christian world, which may arise of this conjunction, as the union of both kings in actions of estate may make the difference in religion as laid aside and almost forgotten.

As first, that it will be a means utterly to extinguish and extirpate pirates, which are the common enemies of mankind, and do so much infest Europe at this time.

Also, that it may be a beginning and seed (for the like actions before have had less beginnings) of a holy war against the Turk, whereunto it seems the events of time doth invite Christian kings, in respect of the great corruption and relaxation of discipline of war in that empire; and much more in respect of the utter ruin and enervation of the Grand Signor's navy and forces by sea; which openeth a way (without congregating vast armies by land) to suffocate and starve Constantinople, and thereby to put those provinces into mutiny and insurrection.

Also, that by the same conjunction there will be erected a tribunal or prætorian power to decide the controversies which may arise amongst the princes and estates of Christendom without effusion of Christian blood; for so much as any estate of

Villiers, Marquis and Duke of Buckingham," is the following entry. "23 Mar. 1616.—'I shall now begin,'—concerning a riot made upon the playhouse, etc." I have not been able to find this letter.

There had been great disorders among the apprentices "or rather (says Chamberlain) the unruly people of the suburbs," on Shrove Tuesday. Among other outrages they broke into the "new playhouse, some time a cock-pit, in Drury Lane, where the Queen's players used to play," burned the play-books, destroyed the furniture, etc. See 'Court and Times of James I.' vol. i. p. 464. Bacon's letter would no doubt contain an account of what had been done with the rioters.

[1] Gibson Papers, vol. viii. f. 59. Written throughout in Meautys's hand. Corrected throughout in Bacon's. Docketed "March 23, 1616. Additional instructions for Sir John Digby."

Christendom will hardly recede from that which the two kings shall mediate or determine.

Also, that whereas there doth as it were creep upon the ground a disposition in some places to make popular estates and leagues to the disadvantage of monarchies, the conjunction of the two kings will be able to stop and impedite the growth of any such evil.

These discourses you shall do well frequently to beat upon, and therewithal to fill up the spaces of the active part of your negotiation; representing that it stands well with the greatness and majesty of the two kings to extend their cogitations and the influence of their government, not only to their own subjects, but to the state of the whole world besides, specially the Christian portion thereof.

The next paper, written a week later, explains what was doing in Council.

Account of Council Business.[1]

For remedy against the infestation of pirates (than which there is not a better work under heaven, and therefore worthy of the great care his Majesty hath expressed concerning the same), This is done:

First, Sir Thomas Smith[2] hath certified in writing, on the behalf of the merchants of London, that there will be a contribution of £20,000 a year, during two years space, towards the charge of repressing the pirates; wherein we do both conceive that this (being as the first offer) will be increased; and we consider also that the merchants of the West (who have sustained in proportion far greater damage than those of London) will come into the circle, and follow the example. And for that purpose letters are directed unto them.

Secondly, for the consultation *de modo* of the arming and proceeding against them; in respect that my Lord Admiral cometh not yet abroad, the table hath referred it to the Lord Treasurer, the Lord Carew, and Mr. Chancellor of the Exchequer, (who

[1] Gibson Papers, vol. viii. f. 60. b. Fair copy. Docketed in Bacon's hand, "30 March, 1617. Account of Counsel business."

[2] Governor of the society of merchants trading to the East-Indies, Muscovy, the French and Summer Islands; and treasurer for the colony and company of Virginia. (Note by R. Stephens.)

heretofore hath served as treasurer of the navy) to confer with the Lord Admiral, calling to that conference Sir Robert Mansell and others expert in sea-service; and so to make report unto the board. At which time some principal merchants shall likewise attend for the Lords' better information.

So that, when this is done, his Majesty shall be advertised from the table: whereupon his Majesty may be pleased to take into this royal consideration both the business in itself, and as it may have relation to Sir John Digby's embassage.

For safety and caution against tumults and disorders in and near the city (in respect of some idle flying papers that were cast abroad of a May-day,[1] &c.) The Lords have wisely taken a course neither to noise it or nourish it by too much apprehension, nor much less to neglect true provision to make all sure. And therefore order is given, that as well the trained bands, as the military bands newly erected, shall be in muster as well weekly in the meantime on every Thursday (which is the day upon which May-day falleth), as in the May week itself, the Monday, Tuesday, Wednesday, and Thursday. Besides, that the strength of the watches shall that day be increased.

For the buildings in and about London. Order is given for four selected aldermen and four selected justices to have the care and charge thereof laid upon them; and they to be answerable for the observing of his Majesty's proclamation, and for stop of all further building; for which purposes the said *Eslues* are warned to be before the board, where they shall receive a strait charge, and be tied to a continual account.

For the provosts marshals, there is already direction given for the city and the counties adjacent; and it shall be strengthened with further commission if there be cause.

For the proclamation, that lieutenants (not being counsellors) deputy-lieutenants, justices of the peace, and gentlemen of quality, should depart the city, and reside in their countries. We find the city so dead of company of that kind for the present, as we account it out of season to command that which is already

[1] In allusion to "Evil May-day," exactly 100 years before. See Stowe's Chronicles. A.D. 1517.

done. But after men have attended their business the two next terms, in the end of Trinity-term (according to the custom) when the justices attend at the Star-chamber, I shall give a charge concerning the same. And that shall be corroborated by a proclamation, if cause be.

For the information given against the Witheringtons, that they should countenance and abet the spoils and disorders in the middle shires: We find the informers to falter and fail in their accusation. Nevertheless upon my motion the table hath ordered that the informer shall attend one of the clerks of the council, and set down articulately what he can speak, and how he can prove it, and against whom, either the Witheringtons or others.

For the causes of Ireland, and the late letters from the Deputy, we have but entered into them, and have appointed Tuesday for a further consultation of the same; and therefore of that subject I forbear to write more for this present.

4.

One of the subjects touched in this report produced a little storm, which though it blew over without doing any damage at that time, contained a warning to Bacon as to his position and authority with the King, so significant that I shall give it a section to itself.

Before the King left London he had resolved with the Council, among other things, that a proclamation should be issued ordering the gentry from London into the country. This was one of those interferences with an Englishman's liberty to do what he likes, which it was obviously inexpedient to resort to without necessity; and the Council, finding that after the departure of the Court London was emptying fast enough of its own accord, decided to suspend the execution of it. Their right to do so they assumed as a matter of course, and Winwood (in a letter dated March 27) merely informed Lake, who was with the King, that they had withheld the Proclamation because they found it needless. In a measure of which the expediency depended so entirely upon accidents of the time and place, it might have been thought that the King would be satisfied with the judgment of his councillors who were on the spot. But it proved quite otherwise.

"I did this afternoon," says Lake, replying to Winwood's letter, "acquaint his M. with your letters. . . . At the point which concerneth the staying of the proclamation he brake into great choler, saying

he was contemned and his commandments neglected; and whatsoever reason could be alleged, he persisted in his passion. That he would never endure that a matter so solemnly determined by him in the presence of his Council, and by them approved, should as soon as his back is turned be changed without his privity. Commanded me to despatch presently to you and to my L. Keeper and to signify his pleasure that he would have the proclamation presently to proceed, and such expedition to be made in it as that without fail it be here to pass his hand before his M. go from this town.[1] His M. saith it is a very weak argument to change the resolution because many be now gone; for he doubteth not but under colour of the next term they will return again. Therefore he will have the proclamation to go forth."[2]

This peremptory message was crossed on the road by Bacon's account of Council business (addressed it seems to Buckingham), where, as we have seen, he alludes to the postponement of the proclamation as a measure in which he entirely concurred, and for which he did not even think it necessary to ask leave or make apology. Reading this passage, the King could have no doubt that Bacon's judgment was decidedly against the issuing of that proclamation: and if he had meant to be advised by him, he would have let it pass. But the King expected obedience, not advice.

"His M. hath commanded me again to send unto you about the proclamation concerning which I sent last unto you. It seemeth my L. Keeper hath written to my L. of Buckingham something concerning it. But his M. hath commanded me to let you understand that obedience is better than sacrifice, and that he knoweth he is King of England. And howsoever people be now out of Town, they may return. At least the proclamation can do no hurt, but will manifest his care. I cannot well by letter tell you how much he is moved at these things, but I wish you to speak with my L. Keeper and that it may be despatched without any more excuse."[3]

The Proclamation was of course sent at once to Lincoln for signature, and Bacon knew from that time how very narrow were the limits of his *authority* in matters of this nature; how little power he had (even when the influence of Buckingham was not exerted) to oppose the King's resolutions when the King had a mind as well as a right to resolve for himself. For nothing had yet occurred to disturb his relations with him, and he had never stood higher in his opinion and favour.

The Council had not waited for the second message, but acted at once on the first,[4] which made the King more easily satisfied. And

[1] He was still at Lincoln. [2] S. P. Dom. James I. vol. xc. no. 150.
[3] Lake to Winwood. April 3. Ibid. vol. xci. no. 10.
[4] Winwood to Lake, April 1. Ibid. no. 2.

on the 5th Bacon received from Buckingham the following answer to his last communication:

"I have acquainted his Majesty with your letters, who liked all your proceedings well, saving only that point, for which you have since made amends in obeying his pleasure, touching the proclamation. His Majesty would have your Lordship go thoroughly about the business of Ireland, whereinto you are so well entered, especially at this time that the Chief Justice is come over, who hath delivered his opinion thereof to his Majesty, and hath understood what his Majesty conceived of the same; wherewith he will acquaint your Lordship, and with his own observation and judgment of the businesses of that country."[1]

5.

The next letter is from the original belonging to the Hon. G. M. Fortescue.

To the R. Hon. his very good L. the Earl of Buckingham, of his M. most hon. Privy Council.[2]

My singular good Lord,

When I heard here your Lordship was dead, I thought I had lived too long. That was (to tell your Lordship truly) the state of my mind upon that report. Since, I hear it was an idle mistaking of my Lord Evers for my Lord Villiers. God's name be blessed, that you are alive to do infinite good, and not so much as sick or ill disposed for any thing I now hear.

I have resigned the Prince's seal, and my Lord Hubberd is placed.[3] I made the Prince laugh, when I told him I resigned it with more comfort than I received it; he understanding me that I had changed for a better. But after I had given him that thought, I turned it upon this, that I left his state and business in good case, whereof I gave him a particular account.

The Queen calleth upon me for the matter of her house,[4] wherein your Lordship and my Lord Chamberlain and I dealt, and received his Majesty's direction. So that I shall prepare a warrant first to my Lord Treasurer and Mr. Chancellor, (for

[1] Harl. MSS. 7006. [2] Fortescue Papers. Original: own hand.

[3] Chancellor and Keeper of the Great Seal to the Prince of Wales. The office was held together with his Chief Justiceship of the Common Pleas. See Calendar of State Papers. Dom. James I. March 29, 1617.

[4] Something, I suppose, concerning Somerset House, where the Queen lived. The name had been recently changed to Denmark House. See 'Court and Times of James I.,' vol. i. p. 464.

that is the right way,) to advise how to settle it, by assignment in case she survive his Majesty, which I hope in God she shall not.

Her desire was expressly and of herself that when I had prepared a warrant to be sent to his Majesty, I should send it by your Lordship's hands.

We sit oft in council. That is all I can yet say; Sir John Denham[1] is not come, upon whose coming the King shall have account of our consultations touching Ireland, which we cannot conclude till we have spoken with him. God ever preserve and prosper you.

It grieveth me much that I cannot hear enough of his Majesty's good disposition of health and his pleasures and other ordinary occurrents of his journey. I pray your Lordship will[2] Mr. Packer to write to me some time of matters of that kind. I have made the like request to Sir Edward Villiers, by whom I write this present, to whose good affection I think myself beholden, as I do also esteem him much for his good parts, besides his nearness to your Lordship, which bindeth me above all.

Your Lordship's most faithful
and devoted friend and servant,
FR. BACON, C. S.

7 Apr. 1617.

The two letters which follow need no comment.

TO THE RENOWNED UNIVERSITY OF CAMBRIDGE, HIS DEAR AND REVEREND MOTHER.[3]

I am debtor to you of your letters, and of the time likewise that I have taken to answer them. But as soon as I could choose what to think on, I thought good to let you know that although you may err much in your valuation of me, yet you shall not be deceived in your assurance: and for the other part also, though the manner be to mend the picture by the life, yet I would be glad to mend the life by the picture, and to become

[1] Chief Justice of Ireland, referred to in Buckingham's letter of the 5th.
[2] So in MS. Stephens printed "will direct," but without necessity. To "will" was in those days often used for to "desire."
[3] Additional MSS. B.M. 3562, f. 27.

and be as you express me to be. Your gratulations shall be no more welcome to me than your business or occasions; which I will attend; and yet not so, but that I shall endeavour to prevent them by my care of your good. And so I commend you to God's goodness.

Your most loving and assured friend and son,

FR. BACON, C. S.

Apr. 12, 1617.

TO THE REVEREND UNIVERSITY OF OXFORD.[1]

Amongst the gratulations I have received, none are more welcome and agreeable to me than your letters, wherein the less I acknowledge of those attributes you give me, the more I must acknowledge of your affection, which bindeth me no less to you, that are professors of learning, than my own dedication doth to learning itself. And therefore you have no need to doubt, but I will emulate, as much as in me is, towards you the merits of him that is gone,[2] by how much the more I take myself to have more propriety in the principal motive thereof. And for the equality you write of, I shall by the grace of God, far as may concern me, hold the balance as equally between the two universities, as I shall hold the balance of other justice between party and party. And yet in both cases I must meet with some inclinations of affection, which nevertheless shall not carry me aside. And so I commend you to God's goodness.

Your most loving and assured friend,

FR. BACON.

Gorhambury, April 12, 1617.

The next letter may require a little explanation.

The parting between the King and the old Lord Chancellor on the 3rd of March when he delivered up the Seal, had been very tender and affectionate.[3] He had made him Viscount Brackley in

[1] Printed by Birch "from the collections of the late Robert Stephens Esq. historiographer royal, and John Locker Esq"—then in his possession. Those collections are now in the British Museum: but they are in great disorder; and if this letter is among them, I have not been able to find it.

[2] The late Lord Chancellor died on the 15th of March, 1616-17.

[3] "Martii 3. . . . Rex invisit Cancellarium languentem, et ex invalidâ senectâ officiio cedere volentem; sigillumque in manus Regis lachrymantis tradidit." Camden, 'Annalium Apparatus,' p. 24.

the preceding November, and he now wished to dignify his retirement and closing days with a higher honour. Before he set out for Scotland he sent him word first by Buckingham and afterwards by Bacon "that he meant presently to bestow on him the title of Earl of Bridgewater, to make him President of the Council, and give him a pension of 3000*l.* a year during his life."[1] But it was too late. Bacon found him at the point of death. He was grateful for the favour—but "these things were all to him but vanities." Such at least was the report of his words which reached Chamberlain. But though nothing to him, they were something to his family; and he might perhaps have been glad to bequeath an Earldom to his son along with the rest of his estate, if he had not felt that he could not live long enough even to receive it. He died within half an hour. To the new Lord (or, as Bacon apparently would have added, the new Lady) Brackley the prospect of the new title was by no means a matter of indifference; who finding the King willing, and having succeeded (by the offer, as it was rumoured, of 20,000*l.*) in making Buckingham more than willing, that he should have it, was anxious not to lose the advantage of the time, but to have it at once. Now the ceremony of investiture could not be performed in the King's absence, and the question was whether he could be made an Earl *without* the ceremony. When this was put to the King, he asked for precedents; Buckingham informed Lord Brackley that they were wanted; and Lord Brackley (to save time, I suppose, or being so directed) sent as many as he could find at once to Bacon, that they might go to the King accompanied by his opinion, which would of course be required.

With this preface, the letters which follow will explain their own business.

To Lord Brackley. (?)[2]

My very good L.,

Taking some time to-day to peruse the paper of precedents which Mr. Cartwright gave me, I find he hath omitted the precedent of the Earl of Richmond, which of all others matcheth best with our case; neither would I omit that of my Lord Haye, though it be of a less degree. I pray your Lordship forthwith to send me both these precedents, with the day and year, and the

[1] Chamberlain to Carleton, 29 March, 1617. Camden only says *titulum Comitis et annuam pensionem.*

[2] Bridgewater House MSS. vol. xxvi. no. 75. Original: own hand. The fly-leaf with the address is gone. But I suppose it must have been addressed to Lord Brackley.

clauses; and then I will make my despatch, which I will send your Lordship with a copy of the same. God keep you.

Yo^{r}. L^{ps} most assured friend,

FR. BACON, C. S.

Gorhamb.
13 Apr. 1617.

I commanded your man's stay.

TO THE EARL OF BUCKINGHAM.[1]

My singular good Lord,

I am now for five or six days retired to my house in the country: for I think all my Lords are willing to do as scholars do, who though they call them holy-days, yet they mean them play-days.

We purpose to meet again on Easter-Monday, and go all to the Spital sermon for that day, and therein to revive the ancient religious manner when all the Council used to attend those sermons; which some neglect in Queen Elizabeth's time, and his Majesty's great devotion in the due hearing of sermons himself with his Council at the court, brought into desuetude. But now our attendance upon his Majesty by reason of his absence cannot be, it is not amiss to revive.[2]

I perceive by a letter your Lordship did write some days since to my Lord Brackley, that your Lordship would have the King satisfied by precedents, that letters patents mought be of[3] the dignity of an Earldom without delivery of the patent by the King's own hand, or without the ordinary solemnities of a creation. I find precedents somewhat tending to the same purpose, yet not matching fully. But howsoever let me, according to my faithful and free manner of dealing with your Lordship, say to you, That since the King means it, I would not have your Lordship, for the satisfying a little trembling or panting of the heart in my Lord or Lady Brackley, to expose your Lordship's self, or myself (whose opinion would be thought to be relied upon), or the King our master, to envy with the nobility of this realm; as

[1] Stephens's first collection, p. 196, from the original.

[2] They went accordingly and dined afterwards with the L. Mayor. But it seems that the preacher, Dr. Page, "was committed for speaking too broadly against the Spanish match." C. and T. of James I., vol. ii. p. 10.

[3] So in the printed copy. I have not found any MS. of this letter. A verb—such as *granted* or the like—seems to have dropped out.

to have these ceremonies of honour dispensed with, which in conferring honour have used to be observed; like a kind of Doctor *Bullatus* without the ceremony of a commencement: The King and you know I am not ceremonious in nature, and therefore you may think (if it please you) I do it in judgment. God ever preserve you.

Your Lordship's most faithful
and devoted friend and servant,
FR. BACON, C. S.

I purpose to send the precedents themselves by my Lord of Brackley; but I thought fit to give you some taste of my opinion before.

Gorhambury, Apr. 13, 1617.

It will be seen from Buckingham's answer to this, which I give in full, that the King had taken much the same view of the question, when it was first proposed to him, that Bacon did.

My very good Lord,

I spake at York with the Archbishop, touching his house, which he hath wholly put into your hands, to do with it what your Lordship shall be pleased.

I have heretofore, since we were in this journey, moved his Majesty for dispatch of my Lord Brackley's business; but because his Majesty, never having heard of any precedent in the like case, was of opinion that this would be of ill consequence in making that dignity as easy as the pulling out a sword to make a man knight, and so make it of little esteem, he was desirous to be assured first that it was no new course before he would do it in that fashion. But since he can receive no assurance from your Lordship of any precedent in that kind, his Majesty intendeth not so to precipitate the business, as to expose that dignity to censure and contempt in omitting the solemnities required and usually belonging unto it.

His Majesty, though he were awhile troubled with a little pain in his back which hindered his hunting, is now (God be thanked) very well, and as merry as he ever was, and we have all held out well. I shewed his Majesty your letter,[1] who taketh very well your care and desire to hear of his health.

So I commit you to God, and rest
your Lordship's most assured friend
to do you service,
G. BUCKINGHAM.

Aukland, the 18 of April 1617.

[1] This must apparently have been the letter of April 7: not the last.

Since the writing of this letter I have had some farther speech with his Majesty touching my Lord Brackley, and find that if in your Lordship's information of the course you write any thing that may tend to the furthering of the dispatch of it in that kind he desireth, it may be done.[1]

This letter, as I find by the docket, was received by Bacon on the 25th of April: and must therefore have crossed the two next on the road.

To the R. Hon. his very good L. the Earl of Buckingham of his Ms. most hon. privy council.[2]

My singular good Lord,

I pray your good Lordship to deliver to his Majesty the inclosed.

I send your Lordship also the warrant to my Lord Treasurer and Mr. Chancellor of the Exchequer for the Queen's house. It is to come again to the King, when the bill is drawn for the letters patents; for this is only the warrant to be signed by his Majesty.

I asked the Queen, whether she would write to your Lordship about it; her answer was very modest and discreet, That because it proceeded wholly from his Majesty's kindness and goodness, who had referred it, it was not so fit for her to write to your Lordship for the dispatch of it; but she desired me to thank your Lordship for your former care of it, and to desire you to continue it. And withal she desireth your Lordship not to press his Majesty in it, but to take his best times. This answer (because I like it so well) I write to you at large. For other matters I will write by the next. God ever prosper you and preserve you.

Your lordship's most faithful
and devoted friend and servant,
Fr. Bacon, C. S.

London, 19 April, 1617.

The letter to the King which was inclosed in this brings us back to the negotiation with Spain; and reveals the existence of some discordant element at the Council-board, upon which I am not able to throw any clearer light. It was no secret that there were some of

[1] Harl. MSS. 7006, f. 11 original.
[2] Fortescue Papers. Original, own hand.

the Cabinet opposed to the match. "The Archbishop of Canterbury, Mr. Comptroller, and Sir Ralph Winwood," says Chamberlain, March 29, "are excepted and left out [of the Commission] as openly opposite." But it was at this time that Sir Walter Raleigh was preparing for his voyage to Guiana, and if Mr. Gardiner is justified in asserting, as a fact of which "there can be little doubt," that "Winwood was urging him to break the peace at all hazards, and to fall upon the Mexico fleet, as the best means, if all others failed, of bringing the King to a rupture with Spain" (P. Charles and the Spanish Marriage, vol. i. p. 61,) this discovery which was new to Bacon, "and opened but darkly," and on which Sir John Digby was to report further to the King, may have related to some suspected proceeding of his. A secretary of state who was capable of such a plot against the government he was serving must have been a very dangerous man to employ, and though it seems too much to believe of any man on no better authority than the report of an ambassador, yet the very rumour can hardly have gained currency respecting one in his place, unless he had been really implicated in some questionable transaction.

TO THE KING, ABOUT THE SPANISH MATCH.[1]

It may please your most excellent Majesty,

Mr. Vice-Chamberlain hath acquainted myself and the rest of the commissioners for the marriage of Spain which are here, with your Majesty's instructions signed with your royal hand, touching that point of the suppressing of the pirates, as it hath relation to his negotiation; whereupon we met yesterday at my Lord Admiral's at Chelsea, because we were loth to draw my Lord into the air, being but newly upon his recovery.

We conceive the parts of the business are four. The charge. The confederations, and who shall be solicited or received to come in. The forces and the distributions of them. And the enterprise. We had only at this time conference amongst ourselves, and shall appoint (after the holy-days) times for the calling before us such as are fit, and thereupon perform all the parts of your royal commandments.

In this conference I met with somewhat which I must confess was altogether new to me, and opened but darkly neither; whereof I think Mr. Vice-Chamberlain will give your Majesty

[1] Gibson Papers, vol. viii. f. 61. Fair copy in Meautys's hand. Docketed "My Lo. Keep. to his M. touching Sir John Digby's instructions."

some light, for so we wished.[1] By occasion whereof I hold it my duty, in respect of the great place wherein your Majesty hath set me (being only made worthy by your grace) which maketh it decent for me to counsel you *ad summas rerum*, to intimate or represent to your Majesty thus much.

I do foresee, in my simple judgment, much inconvenience to insue, if your Majesty proceed to this treaty with Spain, and that your Council draw not all one way. I saw the bitter fruits of a divided Council the last Parliament; I saw no very pleasant fruits thereof in the matter of the cloth. This will be of equal, if not more inconvenience; for wheresoever the opinion of your people is material (as in many cases it is not), there, if your Council be united, they shall be able almost to give law to opinion and rumour; but if they be divided, the infusion will not be according to the strength and virtue of the votes of your council, but according to the aptness and inclination of the popular. This I leave to your Majesty in your high wisdom to remedy. Only I could wish that when Sir John Digby's instructions are perfected, and that he is ready to go, your Majesty would be pleased to write some formal letter to the body of your Council (if it shall be in your absence) signifying to them your resolution in general; to the end that when deliberation shall be turned into resolution, no man (howsoever

[1] A letter from Digby to Buckingham, dated London, May 1, 1617, seems to refer to this.

"I may not omit to let you understand that concerning the chief business which I am to treat, I find here great industry used to discredit it, and to have it believed that it will never succeed, nor that his M. intendeth it, and notwithstanding all that hath been done herein by his M. it is still avowed that the Treaty with France was never dissolved but is yet in subsistence, for that the suspending of it had still a relation to the time that things should be quieted and settled in France, which are now (they say) in a fair way. The Spanish ambassador hath divers times spoken with me about this, and I have ever given him full assurance of his M.'s sincere intentions, and he hath parted from me well satisfied, but others speak the contrary with that confidence, and are persons of that quality and place, that he is much distracted. For mine own part I shall earnestly entreat your Lp. to represent unto his M. this my humble opinion, which I do for the discharge of my duty and service, that if whilst this treaty shall be on foot his M. shall not be pleased, with the show of a constant resolution and his favour to strengthen it, but that his inclination and affection shall be avowed to be doubtful, nay averse, but only for other ends (for this I write unto your Lp upon good grounds) I doubt his M. will not only in Spain find cold and unlooked for answers, but will, I fear, fail of any other service to which this treaty may be made useful (although it should miscarry) if it be constantly and secretly managed. I presume to write thus much, lest whilst his M. is pleased herein to proceed with his accustomed wisdom, and his ministers employed by him with fitting duty and care, others either unwittingly or through averseness overthrow not his M's service and intention." (From a copy made by Mr. Gardiner from the original holograph.)

he may retain the inwardness of his opinion) may be active *in contrarium.*

The letters of my Lords of the Council with your Majesty touching the affairs of Ireland, written largely and articulately, and by your Majesty's direction, will much facilitate our labours here; though there will not want matter of consultation thereupon. God ever preserve your Majesty safe and happy.

Your Majesty's most devoted and obliged servant,

FR. BACON, C. S.

London, April 19, 1617.

The administration of the ecclesiastical patronage of the Crown during Bacon's four years of office would be worth looking into if the records were accessible. The next letter, which is the only one of the kind that I have met with, shows that he began with the intention of bestowing the livings in his gift upon men selected for their worth and fitness, and one would like to know whether any improvement was visible in the general character of the clergy during these years. I am afraid there are no means of ascertaining, without an immoderate amount of labour, what livings in the Chancellor's gift were vacant at what time, and to whom they were given. Otherwise, as collective biographies of all persons who can be included under a given title have been fashionable of late,—as we have had Lives of the Chancellors, the Judges, the Queens, the Princesses, the Archbishops of Canterbury, and I do not know how many more,—I would recommend to a biographer in search of a subject "Lives of the beneficed clergymen presented by the Lord Chancellor Bacon."

This letter was first printed by Birch "from the collection of the late Robert Stephens Esq:" but not quite correctly. Among those collections, now in the British Museum, I find a paper in the hand of John Locker (Add. MSS. 4260, f. 115) from which I conclude he took it. It runs thus.

"By the copy of a letter of the Lord Chancellor Bacon, 24 Apr. 1617, to the Bp of Norwich, it appears that his Lp had presented Mr Gyles Fletcher of Trin: Coll: Camb. to the rectory of Helmingham in Suffolk: and by another letter that he presented one Mr Maxey, Fellow of Christ Church in Oxford, who had been of Trinity in Cambr. to the rectory of Frome St. Quentin, with the chapel of Evershot in Dorsetshire.

To Mr. Maxey he writes thus:—

After my hearty commendations, I having heard of you, as a man well deserving, and of able gifts to become profitable in the

church; and there being fallen within my gift the rectory of &c. which seems to be a thing of good value, £18 in the King's books, and in a good country, I have thought good to make offer of it to you; the rather that you are of Trinity college, whereof myself was some time: and my purpose is to make choice of men rather by care and inquiry, than by their own suits and commendatory letters. So I bid you farewell from Dorset House, 23 April, 1617.

Your loving friend.

The letter to the Bishop of Norwich I have not met with.

The letter which follows is again a solitary specimen. There was once (and perhaps in some unexplored bundle of papers there still is) a letter from Bacon to his *brother* on the same subject and of the same date.[1] But letters from fathers or brothers to one another about marriages for daughters or sisters or nieces were ordinary affairs of business in those days. Letters addressed to the young ladies themselves in such cases were rarer and of more tenderness. And a letter of advice from Bacon to his niece upon an offer of marriage to which she was not inclinable is a task which, exhibiting him in a new relation, throws some new light upon his character,—a light which is the more valuable because, while he has left the records of the *business* of his life for our inspection in such abundance and with so little reserve,—while he makes us welcome to attend him to the courts, the palace, the Parliament, and the council-board; to his gardens, his chambers, and his study; he seldom or never admits us to his fire-side. We have a few letters of affection to kinsmen or familiar friends, which are among the most agreeable of his writings; but if it had not been for the miscellaneous bundles of papers of all sorts left by his brother Anthony, and probably never examined, we should have known nothing at all of his more intimate domestic relations. Here we get a glimpse of him as an uncle only; but in the absence of all records of that most intimate relation of all, an account of which seems to have been expected of me, but must still be expected in vain, it is something to know how he acquitted himself in a correspondence with the daughter of his half-brother.

[1] See an entry of a letter in Stephens's catalogue: date "28 April 1617;" beginning "I thank you for your:" contents, "advising a marriage for his daughter;" address "his brother."

THE LORD KEEPER TO HIS NIECE, TOUCHING HER MARRIAGE.

Good Niece,

Amongst your other virtues I know there wanteth not in you a mind to hearken to the advice of your friends; and therefore you will give me leave to move you again more seriously than before in the match with Mr. Comptroller.[2] The state wherein you now are is to be preferred before marriage, or changed for marriage, not simply the one or the other, but according as by God's providence the offers of marriage are more or less fit to be embraced. This gentleman is religious, a person of honour, being Councillor of State, a great officer, and in very good favour with his Majesty. He is of years and health fit to be comfortable to you, and to free you of burdensome cares. He is of good means and a wise and provident man, and of a loving and excellent good nature, and as I find hath set his affection upon you; so as I foresee you may sooner change your mind, which as you told me is not yet toward marriage, than find so happy a choice. I hear he is willing to visit you before his going into France, which by the King's commandment is to be within some ten days; and I could wish you used him kindly and with respect. His return out of France is intended before Michaelmas. God direct you, and be with you. I rest

Your very loving uncle, and assured friend,

FR. BACON, C. S.

Dorset House, this
28 April, 1617.

We now return to business again. It seems that Lord Brackley had caused a private letter, relating to the precedents of Earls created without investiture, to be shown to Bacon through the agency of a friend or servant whose name began with B. So much may be gathered from Bacon's answer, and more I do not know.

[1] Gibson Papers, vol. viii. f. 62. Fair copy.

[2] Sir Thomas Edmondes, who had been appointed to that office, December 21st, 1616; and, January 19th, 1617–18, was made Treasurer of the Household. He had been married to Magdalen, one of the daughters and co-heirs of Sir John Wood, Knight, Clerk of the Signet; which Lady died at Paris, December 31st, 1614.

The proposal for a second marriage between him and the Lord Keeper's niece does not appear to have had success. (Note by R. Stephens.)

To —— (?)[1]

Mr. B.,

I pray return my kind commendations to my Lo. of Brackley, and let him know that this is a matter (as I conceive it) of great consequence; and therefore in such a case I am not to be guided by a bare sight of a private letter addressed to another and not to me. But I do daily expect from the Court some immediate letters to myself concerning this business; and then my Lord Brackley shall with my best respects unto him understand further from me.

Dorset House,
28 Apr. 1617.

In an account of Council business dated May 9, which will be given presently, Bacon, speaking of the letters of the Commissioners on the business of the Pirates, says that he "had taken special care of them," and that he "finds Mr. Vicechamberlain a good able man with his pen." I presume therefore that they were drawn up, not by himself, but by Sir John Digby. Nevertheless, since they were written under his supervision, and bear his signature, and express his views upon a subject with which he was chiefly concerned as a Councillor, I have thought that they have enough of him in them to be entitled to a place among his occasional works. The originals are preserved among the state papers in the Record Office, and this is the place to which they belong.

THE LORDS COMMISSIONERS AT LONDON TO THEM OF THE SAME COMMISSION AT COURT ABOUT THE BUSINESS OF THE PIRATES.[2]

May it please your Lo^ps^,—Before his Ma^ty's^ letters of the 27th of April came unto our hands we had made ready the despatch which we send herewith unto your Lo^ps^: the which we thought notwithstanding fit to be sent, that thereby his Ma. and your Lo^ps^ may see that we have hitherto gone on in the way which we are by these letters directed to proceed in, as we still intend to do, until we shall be able to give unto Mr. Vicechamberlain such instructions as may be agreeable to his Ma^ty's^ intentions, and proper for him to receive for his direction in his employment in Spain. We only now attend the signification

[1] Bridgewater House MSS. vol. lxxvi. no. 72. No signature; but written in one of the hands employed by Bacon. No flyleaf, address, or docket.

[2] S. P. Dom. James I. vol. xci. no. 52. Orig. Docketed as in the heading.

of his Ma^ty's pleasure that he approveth the course for suppressing the Pirates by holding a continued force and strength upon them for some years; and then we will frame all our future proceedings to suit with his intention. So not having wherewith for the present to give your Lo^ps further trouble, we bid you heartily farewell. From Whitehall, the last of April, 1617.

Your Lps. very loving friends,

Fr. Bacon, C.S. E. Worcester.
T. Suffolke. Notingham.
Jhon Digbye.

THE SAME TO THE SAME.[1]

May it please your Lo^ps,—Upon the late return of Mr. Vicechamberlain from the King, he showed unto us that were by his Ma^ty appointed Commissioners for the Spanish businesses and reside here, an Instruction under his Ma^ty's hand, bearing date at Lincoln the 14th day of April; by which we were directed to call before us all such sea-captains or others as we should think requisite; and from them to take full and perfect information of the most probable and likely courses for the suppressing of the Pirates. To the end that having dealt with the merchants in point of contribution, and with the captains and experienced seamen in point of conduct of the enterprise, we might thereupon ground an Instruction the better in all points thereby to enable Mr. Vicechamberlain both what to propound and how to satisfy what might be demanded upon the overture he is to make unto the King of Spain, for his joining with his Ma^ty in this so Christian-like and honourable an action. Hereupon we have had several meetings; and thought it fit first to take into our consideration the advancing of the business in the general, viz. the suppressing of the Pirates. And afterwards to apply to his negotiation such part as we shall see proper for him to treat there. To this end on the 28th of this month we called before us divers of the most able and understanding merchants; signifying unto them how willing his Ma^ty was to grant them any relief he might against the Pirates; by whom (as it appeared by their Petition unto his Ma^ty) they had been much endamaged and

[1] *Id. ibid.* Original. Docketed by Sir T. Lake, "1617, 30 April. The Lds. Commissioners at London to my Lds. here. Their report about the matter of the Pirates."

the kingdom indeed by the loss of many ships weakened; and therefore we desired to consult with them, and hear their opinions what courses were fit to be held both for the raising of the monies, which in this business were to be expended, as likewise for the prosecution of the enterprise.

For the first, they affirmed that which they said they had before intimated by their letters: That they conceived the City of London and other Ports might be brought to contribute the sum of forty thousand pounds in two years. And this was as far as they would go in matter of charge. Only after a long debate with them of all circumstances of the business, and we letting of them understand that the forty thousand pounds were ever understood to be from the City of London, besides the contribution which the Port Towns might be drawn unto, and that it was expected they should yet have enlarged their offer; they further added in the conclusion that if his Ma^ty would be pleased that the business might be seriously and to good purpose undertaken, it should then appear that in matter of charge they would not be backward, nor wanting to the duties of good subjects.

For the other point, which is the course of undertaking the business, there were two ways fell into debate. The one of sudden surprise; the other of a war to be continued upon them for some years, until by degrees they might be extirpated. For the surprise, we very curiously and exactly fell to an examination of the probability of the effecting of it. And we found that the only harbour and receptacle of the Pirates is Argiers. And though at some times divers of the Pirates serve themselves of Tunis and other wild roads, yet in time of danger, or when they shall see likelihood to be attempted by a fleet, it is certain they will not trust themselves there, but will all secure themselves in the Port of Argiers. Insomuch that unless that may be surprised, any other will be useless. And for this we must freely let your Lo^ps understand, that neither the Merchants spake anything satisfactory in this kind, nor that might make the enterprise seem probable, nor yet the captains and experienced seamen, but rather with one joint voice judged it impossible, as they demonstrated by many reasons, and by the situation and strength of the place, which they made appear by their plots which they had there present.

Touching the second way, of continuing a war against the

Pirates; therein likewise there fell many things into deliberation. As, that the charges being like to grow great and continued, and that other Princes and their subjects being as much or more endamaged than we, whether it would not be fit to have them invited by his Ma^ty^ to join in a proportionable contribution. But some of the merchants seemed to desire that no other nations might be herein interested, but only the English and the Hollanders; alleging that besides the incompatibleness of the Spaniards with us, they supposed the King of Spain did not really desire the suppressing of the Pirates, and therefore would rather hinder than further it, for that they were no way endamaged by them; they only trading with strong fleets to the Indies; and the weakening of the English, French, and Hollanders (who chiefly suffered by the Pirates) was advantageous unto the Spaniards. But when they were put in mind that some ships of Genoa carrying great quantity of monies out of Spain, to be returned for the payment of the soldiers in Flanders, had been taken by the Pirates; that his coasts were so strangely infested as there was no passing between port and port; that multitudes of his subjects were daily captured and made slaves; that his customs by reason of the interruption of trade were much diminished; and that the last year his Indian fleet was laid for and endangered by them;—

All which particulars being confessed by themselves, those who formerly had made the objection that the King of Spain was not to be joined in the business (as not wishing good success to it) ingeniously retracted their former opinions, and confessed that upon consideration of the alleged reasons they conceived that no Prince whatsoever had more cause to desire the subversion of the Pirates or more largely to contribute towards it than he. But they seemed rather desirous that any assistance or aid that might be afforded from the King of Spain (if it might be so procured) might rather be by way of supplying ready money than by uniting or joining of his forces with his Ma^ty's^.

The doubt which we then propounded to the merchants was the loss of time which must of necessity follow if this course of treating with foreign Princes were pursued. And therefore we offered them that if they either knew or could propound any course that were likely to produce a good effect towards the overthrow of the Pirates, and might receive hurt by a suspension

or delay until other Princes were treated with; that we would take order for the preventing of that inconvenience by forbearing any such treaty; and that his Ma^ty^ might only send unto the King of Spain in a courteous and friendly manner to let him understand, that upon the complaint of his subjects he had thought fit to set forth a fleet against the Pirates, whose abode was near unto the coasts of his dominions; so that it might fall out that his said fleet might have cause to make use of his Ports, which happening his Ma^ty^ would intreat from the King of Spain all good and friendly usage, of which there was no cause to doubt but that Princes in amity would afford one to another.

But the merchants very respectfully replied, that they were humble suitors to his Ma^ty^ for relief in this their distress; and that they were willing to tender the offer they had made of the contribution towards the charge; but for the means or course to be held therein, they did according to their duties wholly and willingly refer it to his Ma^ty^ and his Council. But yet they intimated that their opinions were, that the fittest way, and the likeliest to work the effect intended, was that his Ma^ty^ would be pleased by his ministers to treat with other Princes, for the uniting of their forces, or at least for the joining in a contribution towards the charge.

All the Captains being afterwards demanded whether in the interim whilst other Princes were a-treating with, it would not be fit by doing something to give a beginning to the work, were of opinion that it was fit noway to meddle till the business might fully and wholly be undertaken; for that would but waste and consume part of the contribution and work no effect, but rather give a heartening and encouragement unto the Pirates.

After we had had this long debate with the merchants, we called in the captains and experienced seamen, who, as we have said before, absolutely rejected any project that might be for the surprise of the port of Argiers. And all of them without any one dissenting voice (though we heard each of them speak severally) delivered their opinions, that there was no other way for the subversion and overthrow of the Pirates, but by the keeping of a continual strength and power upon them for some years. And to this effect a consent and joining of divers Christian princes would be necessary; as of France and the Hol-

landers, but especially of the King of Spain, without whose aid and assistance they all averred little good was to be done against the Pirates for many reasons. First, that ships of war should not carry above five, but cannot carry above six months' victuals; whereof two are to be allowed for the journey and two the return, unless they may have ports to victual afresh; so that there will only remain two months of employment; during which time if the Pirates should keep their ports, any fleet that shall be sent out against them must return without doing anything, and the Pirates rather receive encouragement than prejudice. As for the ports which may be useful to such a fleet, either to relieve them in any distress, or for careening, or for revictualling, they all conclude that there are none proper but those belonging to the King of Spain. For Marcelles, Tolon, and Villa Franca, they are above a hundred leagues distant from Argiers, so that the fleet would neither get sudden intelligence of the Pirates coming abroad, nor be so near as much to keep them in awe. Besides the sea-men all agree that if use were not made of the King of Spain's ports, upon any strong settled easterly wind they had no other ports to friend, until they had seized the coasts of England or Ireland; So that briefly the sum of their opinions was, That the fittest course for the suppression of the Pirates is by a continued war and not by surprise; that hereunto other Princes are to be invited, and chiefly the King of Spain, of whose ports and further assistance we must be made assured. But they all seem likewise to desire that if it so might be, his assistance might rather be by way of money than of joining his forces. And unto this opinion we ourselves do likewise incline, and shall go on to put the business into this way and to consider further of the proportion of forces, as soon as we have received his Ma^{tys} allowance of this course. In the mean time we held it very fitting to give by your Lo^{ps} that are the major part of the Commissioners for Spanish businesses, an account of this our proceeding unto his Ma^{ty}, and shall not fail likewise to advertise you what conclusion we shall make therein, and to send you a copy of the Instructions which we shall think fit to give Mr. Vice Chamberlain for his negotiation in Spain; to the end that we may have your Lo^{ps} concurrency in this, as in the rest belonging to his employment And so with our hearty commendations, wishing unto your Lo^{ps} a good jour-

ney and a happy return, we bid you farewell. From Whitehall, the last of April 1617.

Yor Lops very loving friends,

Fr. Bacon, C. S. Notingham.
T. Suffolke. E. Worcester.
Jhon Digbye.

6.

On the 7th of May Bacon took his seat in the Court of Chancery. "Our Lord Keeper," says one of Carleton's correspondents, "exceeds all his predecessors in the bravery and multitude of his servants. It amazes those that look on his beginnings, besides never so indulgent a master. On the first day of term he appeared in his greatest glory; for to the Hall, besides his own retinue, did accompany him all the Lords of his Majesty's Council and others, with all knights and gentlemen that could get horses and footcloths."[1]

Chamberlain also came up to town to see the show. "He was accompanied," he says, "by most of the nobility, with other gallants, to the number of more than 200 horse, besides the Judges and the Inns of Court. There was a great deal more bravery and better show of horse than was expected in the King's absence; but both Queen and Prince sent all their followers, and his other friends did their best to honour him."[2] Camden appends to his brief note of the fact the order of the procession, as became the Clarence king of arms: but with this, having matter of more moment to deal with, I need not trouble the reader. "He made a speech in Chancery," continues Chamberlain, "whereof I was promised a copy; but as I hear himself hath hindered that none shall be dispersed: whether it be, as some think, that there is a meaning to have it printed, or rather, as others to the contrary, that it was not like himself nor altogether worthy of him."

His object in forbidding copies to be dispersed was partly no doubt because he wished the first copy to go to the King, and partly to prevent the circulation of imperfect reports. He meant to report it himself; and the expediency of the precaution will be understood by any one who will compare the speech as printed by Rawley in the Resuscitatio with a report preserved among the Harleian MSS.[3]

[1] G. Garrard to Sir D. Carleton, 9 May 1617. S. P. Dom. James I. vol. xcii. no. 15.

[2] *Id. ibid.* no. 18.

[3] Vol. 1576. f. 86.

which bears sufficient internal evidence of having been taken down by an intelligent ear-witness, who wrote down what he could, but could not keep up with the speaker. This appears from the large gaps which occur now and then, and more frequently as the speech proceeds, compared with the fullness and general accuracy of the report in the first few sentences which succeed each gap. The writer had evidently given up the rest of his arrear in despair, and taken a fresh start. A report of this kind has however a certain value in the absence of a more perfect one taken by a short-hand writer. For there need be no doubt that whatever is set down is what the writer heard, or thought he heard, spoken; whereas the fuller copy may have been—and probably was—drawn up by Bacon himself only from recollection of what he had said. To know the words which were actually spoken may sometimes be of importance. But to know what Bacon meant to say, and wished to go forth as what he did say, on this occasion, is for most purposes quite enough. And for this the copy printed by Rawley, who had access to all his papers, compared with a contemporary manuscript sent to Carleton by Edward Sherburn, now one of Bacon's secretaries,[1] may (with some allowance for a few clerical errors) be fairly trusted.

THE EFFECT OF THAT WHICH WAS SPOKEN BY THE LORD KEEPER OF THE GREAT SEAL OF ENGLAND, AT THE TAKING OF HIS PLACE IN CHANCERY, IN PERFORMANCE OF THE CHARGE HIS MAJESTY HAD GIVEN HIM WHEN HE RECEIVED THE SEAL.[2]

Before I enter into the business of the court, I shall take advantage of so many honourable witnesses to publish and make known summarily, what charge the King's most excellent Majesty gave me when I received the seal, and what orders and resolutions myself have taken in conformity unto that charge; that the King may have the honour of direction, and I the part of obedience; whereby your Lordships and the rest of the presence shall see the whole time of my sitting in Chancery[3]

[1] He had been taken into his service on the 12th of March. See S. P. Dom. James I. vol. xc. no. 117.

[2] Rawley's Resuscitatio, p. 79. (R.) S. P. Dom. James I. vol. xcii. no. 13. Copy by Edward Sherburn. (S.) Docketed, "The effect of my L. Keeper's speech made in the Chancery, the first day of the term, being the 7th of May 1617."

[3] *the Chancery.* R.

(which may be longer or shorter, as it shall please God and the King[1]) contracted into one hour. And this I do for three causes.

First, to give account to the King of his commandment.

Secondly, that it may be a guard and custody to myself and my own doings, that I do not swerve or recede from any thing that I have professed in so good[2] company.

And thirdly, that all men that have to do with the Chancery or the Seal, may know what they shall expect, and both set their hearts and my ears at rest; not moving me in any thing against these rules; knowing that my answer is now turned from a *nolumus* into a *non possumus*. It is no more 'I will not' but 'I cannot' after this declaration.

And this I do also under three cautions.

This first is, that there be some things of a more secret and council-like nature, which are rather to be acted than published; but these things which I shall speak of to-day are of a more public nature.

The second is, that I will not trouble this presence with every particular, which would be too long; but select those things which are of greatest efficacy, and conduce most *ad summas rerum*; leaving many other particulars to be set down in a public table, according to the good example of my last predecessor in his beginnings.

And lastly, that these imperatives, which I have made but to myself and my times, be without prejudice to the authority of the court, or to wiser men that may succeed me; and chiefly that they are wholly submitted unto the great wisdom of my sovereign (the absolutest prince in judicature that hath been in the Christian world); for if any of these things which I intend to be subordinate to his directions, shall be thought by his Majesty to be inordinate, I shall be most ready to reform them. These things are but *tanquam album prætoris*; for so did the Roman prætors (which have the greatest affinity with the jurisdiction of the Chancellor here), who used to set down at their entrance how they would use their jurisdiction. And this I shall do, my Lords, *in verbis masculis*; no flourishing or painted words, but such words as are fit to go before deeds.

[1] So R. S. omits the clause within the parenthesis. [2] *noble.* R.

The 4 heads of the King's charge.

The King's charge, which is my lanthorn, rested upon four heads.

1. The first was, that I should contain the jurisdiction of the court within the true and due limits, without swelling or excess.

2. The second, that I should think the putting of the great seal to letters patents was not a matter of course to follow after precedent warrants; but that I should take it to be the maturity and fulness of the King's intentions: and therefore one[1] of the greatest parts of my trust, if therein[2] I saw any scruple or cause of stay, that I should acquaint him; concluding with a *Quod dubites ne feceris.*

3. The third was, that I should retrench all unnecessary delays, that the subject mought find that he did enjoy the same remedy against the fainting of the soul and consumption of the state;[3] which was speedy justice. *Bis dat, qui cito dat.*

4. The fourth was, that justice might pass with as easy charge as mought be; and that those same brambles that grow about justice, of needless charge and expense, and all manner of exactions, mought be rooted out so far as mought be.

These commandments, my Lords, are righteous, and (as I may term them) sacred; and therefore to use a sacred form, I pray God bless the King for his great care over the justice of this land, and give me, his poor servant, grace and power to observe his precepts.

Now for a beginning towards it, I have set down and applied particular orders to every one of these four general heads.

Excess or tumour of the Chancery.

For the excess or tumour of this court of Chancery, I shall divide it into five natures.

1. The first is, when the court doth embrace or retain causes, both in matter and circumstance merely determinable and fit for the common law. For, my Lords, the Chancery is ordained to supply the law, and not to subvert the law. Now to describe unto you or delineate what those causes are (and upon what differences) that are fit for the court, or not fit for the court,[4] were too long a lecture. But I will tell you what remedy I have prepared. I will keep the keys[5] of the court myself, and I will never refer any demurrer or plea (tending to discharge or

[1] *that it was one.* R. [2] om. R.
[3] *against the fainting of the Seal and against the consumption of the means and estate.* R. [4] R. omits this clause. [5] So R. S. omits *keep the.*

dismiss the court of the cause) to any master of the Chancery, but judge of it myself, or at least the Master of the Rolls. Nay further, I will appoint regularly, that on the Tuesday of every week (which is the day of orders) first to hear all motions of that nature before any other, that the subject may have his *vale* at first without attending, and that the court do not keep or accumulate a miscellany and confusion of causes of all natures.

2. The second point concerneth the time of the complaint, and the late comers into the Chancery, which stay till a judgment be passed against them at the Common Law, and then complain: wherein your Lordships may have heard a great rattle, and a noise of a *præmunire*, and I cannot tell what. But that question the King hath settled according to the ancient precedents in all Kings' times[1] continued. And this I will say, that the opinion not to relieve any case after judgment, would be a guilty opinion; guilty of the ruin, and naufrage, and perishing of infinite subjects: and as the King found it well out, why should a man fly into the Chancery before he be hurt? The whole need not the physician, but the sick.[2] But, my Lords, the power should be preserved, but then the practice would be moderated. My rule shall be therefore, that in case of complaints after judgments, (except the judgments be upon *nihil dicit*, and causes[3] which are but disguises of judgment, or that they be judgments[4] obtained in contempt of a precedent[5] order of this court,) yea, and after verdicts also, I will have the party complainant enter into good bond to prove his suggestion: so that if he will be relieved against a judgment at common law upon matter of equity, he shall do it *tanquam in vinculis*, at his peril.

3. The third point of excess may be the over-frequent and facile granting of injunctions for the staying of the common law,[6] or the altering of[7] possessions; wherein these shall be my rules.

I will grant no injunction merely upon priority of suit; that is to say, because this court was first possessed: a thing that was well reformed in the late Lord Chancellor's time, but usual[8]

[1] *all times.* R. [2] S. omits this sentence. [3] R. omits *and causes.*
[4] R. omits *or that they be judgments.* Sherburn's copy has 'as' for 'or,' which is the reading of another MS. in the same volume.
[5] *preceding.* R. [6] *lawes.* R. [7] R. omits *of.* [8] *used.* R.

in the Chancellor Bromley's time; insomuch as I remember that Mr. Dalton the counsellor at law put a pasquil upon the court in nature of a bill; for seeing it was no more but, My Lord, the bill came in on Monday, and the arrest at common law was[1] on Tuesday, I pray the injunction upon priority of suit: he caused his client, that had a loose debtor, to put in a bill into the Chancery before the bond due to him was forfeited, to desire an order that he mought have his money at his[2] day, because he would be sure to be before the other. I do not mean to make it a horse-race[3] who shall be first at Westminster-hall.

Neither will I grant an injunction upon matter contained in the bill only, be it never so smooth and specious; but upon matter confessed in the defendant's answer, or matter pregnant in writing, or of record: or upon contempt of the defendant in not appearing, or not answering, or trifling with the court by insufficient answering. For then it may be thought that the defendant stands out of[4] purpose to get the start at the common law, and so to take advantage of his own contempt; which may not be suffered.

As for injunctions for possession, I shall maintain [illegible]ssessions as they were at the time of the bill exhibited, and [illegible]he space of a year at least[5] before, except the possession were gotten by force or by any trick.[6]

Neither will I alter possessions[7] upon interlocutory orders, until a decree; except upon matter plainly confessed in the defendant's answer, joined also with a plain disability and insolvency in the defendant to answer the profits.

As for taking the possession away in respect of contempts, I will have all the process of the court spent first and a sequestration of the profits before I come to an injunction.

[1] So R. S. omits *was*. [2] *the*. R.
[3] *matter of an horse race or posting*. R. [4] *upon*. R.
[5] R. omits *at least*.
[6] A report (Harl. MSS. 1576. f. 86) which seems to have been made by an ear witness who was not a shorthand writer, gives the passage as follows. "For possessions, except the possession were gained by force or circumvention or a trick, I will take away no possession till the time of a decree come, except upon matter confessed; and that also when the defendant is so poor that he can put in no bond for the profits taken before the decree; which if the defendant cannot do, and matter appear in the answer to move me to it, I will take the possession and restore it to the plaintiff. And for such as stand in contempt, I will have all the process out before an Injunction granted. First an attachment, then an attachment with proclamation, then a commission of rebellion, then a sergeant at arms, and after that a sequestration, and then after that an injunction."
[7] *possession*. R.

4. The fourth point[1] is concerning the communicating of the authority of the Chancellor too far; and making upon the matter too many Chancellors, by relying too much upon reports of the masters of the Chancery as concludent. I know, my Lords, the masters of the Chancery are reverend men; and the great mass of the business of the court cannot be sped without them; and it is a thing the Chancellor may fall to[2] for his own ease, to rely too much upon them. But the course that I will take generally shall be this; that I will make no binding order upon any report of one of the masters, without giving a seven-nights day at the least to shew cause against the report, (which nevertheless I will have done modestly, and with due reverence towards them): and again, I must utterly discontinue the making of any[3] hypothetical or conditional order; that if a master of the Chancery do certify thus and thus, that then it is so ordered, without further motion; for that is a surprise, and gives no time for contradiction.

5. The last point of excess is, if a Chancellor shall be so much of himself, as he shall neglect assistance of reverend Judges in cases of difficulty, (especially if they touch upon law,) or calling them, shall do it but *pro formâ tantum*, and give no due respect to their opinions: Wherein, my Lords, (preserving the dignity and majesty of the court, which I account rather increased than diminished by grave and due assistance,) I shall never be found so sovereign or abundant in mine own sense, but I shall both desire and make true use of assistance. Nay, I assure your Lordships, if I shall[4] find any main diversity of opinion in[5] my assistants from my own, though I know well the judicature wholly resides in myself, yet I think I should have recourse to the oracle of the King's own judgment, before I should pronounce. And so much for the temperate use of the authority of this court; for surely the health of a court, as well as of a body, consists in temperance.

Staying of grants at seal.

For the second commandment of his Majesty, touching staying of grants at the great seal; there may be just cause of stay, either in the matter of the grant, or in the manner of passing

[1] *The fourth part of excess.* R. [2] *may soon fall into.* R.
[3] *an.* R. [4] *should.* R. [5] *of.* R.

the same. Out of both which I extract these six principal cases which I will now make known: all which, nevertheless, I understand to be wholly submitted to his Majesty's will and pleasure, after by me he shall have been informed; for if *iteratum mandatum* do come, obedience is better than sacrifice.

1. The first case is, where any matter of revenue or treasure or profit passeth from his Majesty; My first duty shall be to examine whether the grant hath passed in the due and natural course by the great officers of the revenue, (the Lord Treasurer and Chancellor of the Exchequer,) and with their privity; which if I find it not to be, I must presume it[1] to have passed in the dark, and by a kind of surreption; and I shall[2] make stay of it till his Majesty's pleasure be further known.

2. Secondly, if it be a grant that is not merely vulgar, and hath not[3] of course passed at the signet by a *fac simile*, but needeth science, my duty shall be to examine whether it hath passed by the learned counsel and had their docket; which is that[4] his Majesty reads, and that leads him; and if I find it otherwise, (although the matter were not in itself inconvenient,) yet I hold it just cause of stay (for precedent's sake) to keep men in the right way.

3. Thirdly, if it be a grant which I conceive (out of my little knowledge) to be against the law; of which nature Theodosius was wont to say, when he was pressed, *I spake it, or I writ it, but I granted it not if it be unjust*:[5] I will call the learned counsel to it, (as well him that drew the book as the rest,) or some of them: and if we find cause, I will inform his Majesty of our opinion, either by myself or some of them. For as for the Judges, they are judges of grants past, but not of grants to come, except the King call them.

4. Fourthly, if the grants be against the King's published[6] book of bounty, I am expressly commanded to stay them until the King either revise his book in general, or give direction in the particular.

5. Fifthly, if, as a councillor of estate, I do foresee inconvenience to ensue by the grant in reason of estate, in respect of the King's honour or discontent and murmur of the people; I will not trust mine own judgment, but I will either acquaint his

[1] S. omits *it*. [2] *will*. R. [3] S. omits *not*. [4] *that which*. R.
[5] *I said it but I granted it not if it be unlawful*. R. [6] R. omits *published*.

Majesty with it, or the Council table, or some such of my Lords as I shall think fit.

6. Lastly, for matter of pardons; if it be of treason, misprision of treason, murder, either expressed or involute, by a *non-obstante;* or of piracy,[1] or of *præmunire,* or of fines, or exemplary punishment in the star-chamber, or of[2] some other natures; I shall by the grace of God stay them until his Majesty (who is the fountain of grace) may resolve between God and him (understanding the case) how far grace shall abound or superabound.

And if it be of persons attainted and convicted of robbery, burglary, etc. then will I examine whether the pardons passed the hand of any justice of assize, or other commissioners, before whom the trial was made; and if not, I think it my duty also to stay them.

Thus your Lordships see in this matter of the Seal, and his Majesty's royal commandment concerning the same, I mean to walk in the light, so that men may know where to find me: and this publishing thereof plainly, I hope will save the King from a great deal of abuse, and me from a great deal of envy; when men shall see that no particular turn or end leads me, but a general rule.

Speedy justice.

For the third general head of his Majesty's precepts, concerning speedy justice; it rests much upon myself, and much upon others: yet so as my procuration may give some remedy and order unto it. For myself,[3] I am resolved that my decree shall come speedily (if not instantly) after the hearing, and my signed decree speedily upon my decree pronounced. For it hath been a manner much used of late in my last Lord's time (of whom I learn much to imitate, and somewhat[4] to avoid) that upon the solemn and full hearing of a cause nothing is pronounced in court, but breviates are required to be made; (which I do not dislike in itself in causes perplexed: for I confess I have somewhat of the cunctative; and I am of opinion that whosoever is not wiser upon advice than upon the sudden, the same man is

[1] *a Pyracy.* R. [2] S. omits *of.*
[3] This whole clause from 'it rests' to 'myself' is omitted in the 'Resuscitatio.'
[4] R. has "and, with due reverence to his memory let me speak it, much to avoid."

no wiser at fifty[1] than he was at thirty, and it was my father's ordinary word, *You must give me time*). But yet I find when such breviates were taken, the cause was sometimes forgotten a term or two, and then set down for a new hearing, or a re-hearing, three or four terms after. And in the mean time the subject's pulse beats swift, though the chancery pace be slow.[2] Of which kind of intermission I see no use, and therefore I will promise regularly to pronounce my decree within few days after my hearing and to sign my decree at the least in the vacation after the pronouncing, for fresh justice is the sweetest, and to the end that there be no delay of justice, nor any other means-making or labouring, but the labour of the counsel at the bar.[3]

2. Again, because justice is a sacred thing, and the end for which I am called to this place, and therefore[4] is my way to heaven (and if it be shorter, it is never a whit the worse) I shall by the grace of God (as far as God shall give me strength) add the afternoon to the forenoon, and some fortnight[5] of the vacation to the term, for the expediting and clearing of the causes of the court. Only the depth of the three long vacations I would reserve in some measure free for business of estate, and for studies, arts, and sciences, to which in my nature I am most inclined.

3. There is another point of true expedition, which resteth in myself,[6] and that is in my manner of giving orders. For I have seen an affectation of dispatch turn utterly to delay and length: for the manner of it is to take the tale out of the counsellor at the bar his mouth, and to give a cursory order, nothing tending or conducing to the end of the business. It makes me remember what I heard one say of a Judge that sat in Chancery, that he would make 80 orders in a morning out of the way, and it was out of the way indeed, for it was nothing to the end of the business: and this is that which makes sixty, eighty, an hundred orders in a cause, to and fro, begetting one

[1] *fifty years old.* R.

[2] This whole sentence omitted in R.

[3] So both the MSS. in the S. P. Office. The 'Resuscitatio' has (after 'sweetest') *and besides justice ought not to be delayed. And it will also avoid all means making or labouring: for there ought to be no labouring in causes but the labouring of the Counsel at the Bar.* I suspect that neither version is quite right.

[4] One of the MSS. in the Paper Office transfers 'therefore' to the parenthesis, which is perhaps right.

[5] *fourth night.* R.

[6] *much in myself.* R.

another; and like Penelope's web, doing and undoing. But I mean not to purchase the praise of expeditive in that kind; but as one that hath a feeling of my duty, and of the case of others, my endeavour shall be to hear patiently, and to cast my order into such a mould as may soonest bring the subject to the end of his journey.

4. As for such delays as may concern others, the great abuse is, that if the plaintiff have got an injunction to stay suits at common law, then he will spin on his cause at length; but by the grace of God I will make injunctions an hard pillow to sleep on; for if I find that he prosecutes not with effect, he may hap when he is awake find not only his injunction dissolved, but his cause dismissed.

5. There be other particular orders I mean to take for non prosecution or faint prosecution, wherewith I will not trouble you now, because *summa sequar fastigia rerum.* And so much for matter of expedition.

Retrenching charge.

Now for the fourth and last point of the King's commandment, for the cutting off unnecessary charge of the subject, a great portion of it is fulfilled in the precedent article touching expedition; for it is the length of suits that doth multiply charge chiefly; but yet there are some other remedies that conduce thereunto.

1. First, therefore, I shall maintain strictly, and with severity, the former orders which I find my Lord Chancellor hath taken, for the inordinate[1] and needless prolixity and length of bills, and answers, and so forth; as well in punishing the party, as fining the counsel, whose hand I shall find at such bills, answers, etc.

2. Secondly, for all examinations taken in the court, I do give charge unto the examiners (upon peril of their places) that they do not use any idle repetitions, or needless circumstances, in setting down the depositions taken by them; and I would I could help it likewise in commissions in the country, but that is impossible.[2]

3. Thirdly, I shall take a diligent survey of the copies in

[1] *which I find made by my Lord Chancellor for the immoderate*, etc. R.
[2] *almost unpossible.* R.

chancery, that they have their just number of lines, and without open or wasteful writing.

4. Fourthly, I shall be careful there be no exaction of any new fees, but according as they have been heretofore set and tabled.

5.[1] As for lawyers' fees, I must leave it[2] to the conscience and merit of the lawyer, and the estimation and gratitude of the client: but yet this I can do; I know there have used to attend this bar a number of lawyers that have not been heard sometimes scarce once or twice in a term; and that makes the client seek to great counsel and favourites (as they call them, a term fitter for kings than judges) for[3] every order that a mean lawyer mought as well[4] dispatch. Therefore to help the generality of lawyers, and therein to ease the client, I will constantly observe that every Tuesday and other days of orders, after nine o'clock strucken, I will hear the bar until eleven, or half an hour after ten at the least. And since I am upon the point whom I will hear, your Lordships will give me leave to tell you a fancy. It falls out, that there be three of us the King's servants in great place, that are lawyers by descent, Mr. Attorney son of a Judge, Mr. Solicitor likewise son of a Judge, and myself, a Chancellor's son.

Now because the law roots so well in my time, I will water it at the root thus far, as beside these great ones, I will hear any Judge's son before a Serjeant, and any Serjeant's son before a Reader, if there be not many of them.[5]

6. Lastly, for the better ease of the subjects, and the bridling of contentious suits, I shall give better (that is greater) costs where the suggestions are not proved, than hath been heretofore used.[6]

[1] The Harleian MS. above quoted gives this paragraph as follows: "I see a number at this bar which are scarce heard here once in a Term, that were made to be heard as well as greater men." Then follows a blank space, and then "Then the subject must go to the King's counsel, to sergeants and favourites (as they call them, a term fitter for Kings than Judges) and then every 20*s.* must cost the subject 3*l.*, 4*l.*, or 5*l.*, because his ordinary counsel cannot be heard. This I'll remedy, and every Tuesday which is a day of orders, as soon as 9 strikes I'll begin with the Bar, and so till 10 or 11 hear them. And those days shall be for the bar generally, and this will help the generalty of lawyers, and save the client's purse."

[2] R. omits *it.* [3] *and that for.* R. [4] *mought despatch and as well.* R.

[5] R. omits this clause.

[6] The Harl. MS. gives this thus: "And lastly for cutting off unnecessary suits and vexations of idle persons, I'll raise the market of costs: he that in the end proves not his bill but vexes the subject shall pay high costs."

There be divers other orders for the better reglement of this court; and for granting of writs, and for granting of benefices, and other things which I shall set down in a table. But I will deal with no other to-day but such as have a proper relation to his Majesty's commandment; it being my comfort that I serve such a master, that I shall need to be but a conduit for the conveying only of his goodness to his people. And it is true that I do affect and aspire to make good that saying, that *Optimus magistratus præstat optimæ legi;* which is true in his Majesty. But for myself, I doubt I shall not attain it. But yet I have a domestic[1] example to follow. My Lords, I have no more to say, but now I will go on to the business of the court.

7.

The effect of the day was a little marred, according to Chamberlain, by an inferior exhibition which succeeded this speech. It happened that the first motion was to be made by a brother of the Earl of Huntingdon—a young lawyer. Bacon wished the Lords that had come with him to stay and hear it, which they did. Unluckily he performed his part but poorly; "being, as his friends said, not provided but called on the sudden." [2] Upon the whole however Bacon was very well satisfied with the day's work—as will appear by his own reports to the King and Buckingham, written immediately after; which may follow without further comment.

First however must come a letter of merely formal business; the interest of which, if any, consists in its being perhaps the first paper to which he set his hand in his judicial capacity—certainly one of the first.

To the Right Reverend the Father in God the Bishop of Dirrhay in Ireland.[3]

After my hearty commendation unto your Lp. Whereas it is required on the behalf of Dame Elizabeth Killigrew, widow, that your Lp. and your wife may be warned to appear in Chancery on Monday next, being the 12th of this instant May, to answer to a bill there exhibited against you by her La^p^, I am at her instance to give your Lp. notice thereof by this my letter, according to the manner used towards persons of your place and

[1] *domesticall.* R.
[2] S. P. Dom. James I. vol. xcii. no. 18.
[3] S. P. James I., Ireland.

calling; praying and requiring you hereby to take knowledge thereof and to give order to those whom you do employ in such your causes for your Lp's appearance and putting in of your answer at the same time accordingly. Whereof hoping there shall be no default on your Lp's part, I bid you heartily farewell.

Yo^r Lo^ps very loving friend

FR. BACON, C. S.

At Dorset House
8° Maii 1617.

TO THE EARL OF BUCKINGHAM.[1]

My singular good Lord,

I send your Lordship, according to the direction of your letter, a note of the precedents that I find in my Lord Brackley's business; which do rather come near the case than match it. Your Lordship knoweth already my opinion, that I would rather have you constant to the matter than instant for the time.

I send you also[2] an account of council business by way of remembrance to his Majesty, which it may please you to deliver to him.

The Queen returneth her thanks to your Lordship for dispatch[3] of the warrant touching her house: I have not yet acquainted the Lord Treasurer and Chancellor of the Exchequer with it; but I purpose to-morrow to deliver them the warrant, and to advise with them for the executing the same.

I have received the King's letter with another from your Lordship touching the cause of the officers and Sir Arthur Ingram, whereof I will be very careful to do them justice.

Yesterday I took my place in Chancery, which I hold only from the King's grace and favour, and your friendship.[4] There was much ado, and a great deal of world. But this matter of pomp, which is heaven to some men, is hell to me, or purgatory at least. It is true I was glad to see that the King's choice was so generally approved, and that I had so much interest in men's

[1] Gibson Papers, vol. viii. f. 63. A fair copy, but in a tired hand. Compared with Stephens's copy (first collection, p. 200) which is said to be from the original. I call it S.

[2] *I send also inclosed.* S.

[3] *the dispatch.* S.

[4] *constant friendship.* S.

good wills and good opinions, because it maketh me the fitter instrument to do my master service and my friend also.

After I was set in Chancery, I published his Majesty's charge which he gave me when he gave me the seal, and what rules and resolutions I had taken for the fulfilling of[1] his commandments. I send your Lordship a copy of that I said. My Lord Hay coming to take his leave of me two days before, I told him what I was meditating, and he desired me to send him some remembrance of it; and so I could do no less[2] but send him another copy thereof. Men tell me it hath done the King a great deal of honour; insomuch that some of my friends that are wise men and no vain ones, did not stick to say to me, that there was not these seven years such a preparation for a Parliament; which was a commendation, I confess, pleased me well. I pray take some fit time to shew it his Majesty, because if I misunderstood him in any thing, I may amend it, because I know his judgment is higher and deeper than mine.

I take infinite contentment to hear his Majesty is in great good health and vigor; I pray God preserve and continue it. Thus wishing you well above all men living, next my master and his: I rest

Your true and devoted friend and servant,

FR. BACON, C. S.

Dorset-house, which putteth me in mind to thank your Lordship, for your care of me touching York-house,[3] May 8, 1617.

A NOTE OF SUCH PRECEDENTS AS COME NEAREST THE CASE OF THE LORD BRACKLEY.[4]

The Lord Hay was created Baron of Sawley, 28 *Junii* 13 *Regis*, without the ceremony of robing, as I take it, but then the patent was (as I conceive it also) delivered to the person of the

[1] S. omits "of."

[2] *could not but.* S. But in the MS. copy which Stephens used it is "*could doe but,*" "doe" being the end of a line. The words "no less" had been missed.

[3] Bacon had applied to the Archbishop of York through Buckingham for a lease of York House, the residence of the late Lord Chancellor, and obtained his consent without conditions. See Buckingham's letter of April 18, p. 168.

[4] Bridgewater House MSS. vol. xlvii. no 624. Docketed "Precedents that come near the Lord Brackley's case."

said Lord Hay by the King's own hands. And again, the dignity of a Baron hath incident to it only the ceremony of robes, and not the cincture of the sword, coronet, etc.

The Duke of Lenox was created Earl of Richmond, 6 *Octobris* 11° *Regis*, without any of the ceremonies (as I take it); but the patent (as I conceive it also) was delivered to the person of the said Duke by the hand of the King. And again, in regard he was invested of the superior dignity of Duke of Scotland, the ceremonies were not fit to be iterated.

King Henry VII. created Edward Courtenay knight, Earl of Devon, 26 *Octob.*, 1 *Regni, teste meipso apud Westm.*, etc. Whereby it may be collected, that it was done without the solemnities; for that where the solemnities are performed, it hath used to be *hisce testibus*, and not *teste meipso*; and whether it were delivered with the king's own hand or no, it appears not.

Edward VI. created William Earl of Essex Marquis of Northampton, 16 Feb. 1 Edw. VI. and it is mentioned to be *per cincturam gladii, cappam honoris, et circuli aurei impositionem*; but whether these ceremonies were actually performed, or whether the delivery was by the King's own hand *non constat*, but it was *teste meipso*, and not *hisce testibus*.

The same King created John Viscount Lile Earl of Warwick, the same time, and it is mentioned to be *per cincturam gladii*, etc. but it was *teste meipso*, and not *hisce testibus*.

Edward VI. created Thomas Lord Wriothesley Earl of Southampton in the same day, and in the same manner, with a *teste meipso*, and not *hisce testibus*.

These three creations being made upon one day, and when the King was a child of nine years old, and in the very entrance of his reign (for the patents bear date at the Tower of London), doth make me conjecture that all the solemnities were performed; but whether the King endured to be present at the whole ceremony, and to deliver the patents with his own hand, I doubt; for that I find that the very self-same day, year, and place, the King created his uncle the Earl of Hertford to be Duke of Somerset *per cincturam gladii, cappam honoris, et circuli aurei impositionem, et traditionem virgulæ aureæ*, with a *hisce testibus*, and not *teste meipso*, and with a *datum per manus nostras*. But these things are but conjectural.

I find no precedent for a *non obstante*, or a dispensation with the solemnities, as the Lord Brackley's bill was penned

Account of Council Business, and of other matters committed to me by his M.[1]

First for May-day, at which time there was great apprehension of tumult by prentices and loose people; there was never such a still. The remedies that did the effect were three: First, The putting in muster of the trained bands and military bands in a brave fashion that day. Next the laying a strait charge upon the mayor and aldermen for the city, and the justices of peace for the suburbs, that the prentices and others mought go abroad with their flags and other gauderies, but without weapon of shot and pike, as they formerly took liberty to do: which charge was exceeding well performed and obeyed. And the last was, that we had, according to our warrant dormant, strengthened our commissions of the peace in London and Middlesex with new clauses of lieutenancy, which as soon as it was known abroad, all was quiet by the terror it wrought. This I write, because it maketh good my former assurance I gave to his Majesty at his first removes, that all should be quiet, for which I received his thanks.

For the Irish affairs, I received this day his Majesty's letters to the Lords, which we have not yet opened, but shall sit upon them this afternoon. I do not forget, besides the points of state, to put my Lord Treasurer in remembrance that his Majesty laid upon him the care of the improvement of the revenue of Ireland by all good means, of which I find his Lordship very careful, and I will help him the best I can.

The matter of the revenue of the recusants here in England, I purpose to put forwards by a conference with my Lord of Canterbury, upon whom the King laid it, and secretary Winwood; and, because it is matter of the Exchequer, with my Lord Treasurer and Mr. Chancellor, and after to take assistance of Mr. Attorney and the learned counsel, and when we have put it in a frame, to certify his Majesty.

The business of the pirates is I doubt not by this time comen

[1] Gibson Papers, vol. viii. f. 64. Draft: the first part in Bacon's hand, the rest in Meautys's. Docketed "9° May, 1617, an account of Counsell business."

to his Majesty upon the letters of us the commissioners, whereof I took special care; and I must say, I find Mr. Vice-Chamberlain a good able man with his pen. But to speak of the main business, which is the match with Spain, the King knoweth my mind by a former letter, that I would be glad it proceeded with an united council; not but that votes and thoughts are to be free, but yet after a King hath resolved, all men ought to co-operate, and to be neither active nor much locutive *in oppositum;* especially in a case where a few severing from the rest may hurt the business *in foro famæ.*

Yesterday, which was my weary day, I bid all the Judges to dinner, (which was not used to be,) and entertained them in a private withdrawing chamber with the learned counsel. When the feast was passed, I came amongst them, and set me down at the end of the table, and prayed them to think I was one of them, and but a foreman. I told them I was weary and therefore must be short, and that I would now speak with them but upon two points. Whereof the one was, that I would tell them plainly that I was firmly persuaded that the former discords and differences between the Chancery and other courts was but flesh and blood; and now the men were gone, the matter was gone; and that for my part as I would not suffer any the least diminution or derogation from the ancient and due power of the Chancery, so if any thing should be brought to them at any time touching the proceedings of the Chancery which did seem to them exorbitant or inordinate, that they should freely and friendly acquaint me with it, and we should soon agree; or if not, we had a master that could easily both discern and rule. At which speech of mine, besides a great deal of thanks and acknowledgment, I did see cheer and comfort in their faces, as if it were a new world. The second point was, that I let them know how his Majesty at his going gave me charge to call and receive from them the accounts of their circuits, according to his Majesty's former prescript to be set down in writing, and that I was to transmit the writings themselves to his Majesty; and accordingly as soon as I have received them I will send them to his Majesty.

Some two days before I had a conference with some Judges, (not all but such as I did choose,) touching the High Commission, and the extending of the same in some points; which I see I shall be able to dispatch by consent without his Majesty's further trouble.

I did call upon the Judges committees also for the proceeding in the purging of Sir Edward Coke's *Reports*, which I see they go on with seriously.

Thanks be to God, we have not much to do for matters of counsel, and I see now that his Majesty is as well able by his letters to govern England from Scotland, as he was to govern Scotland from England.

To these letters, on the 18th of May, Buckingham returned the following answer.[1]

My honoured Lord,

I have acquainted his Majesty with your letters, and the papers that came inclosed, who is exceedingly well satisfied with that account you have given him therein; especially with the speech you made at the taking of your place in the Chancery, whereby his Majesty perceiveth that you have not only given proof how well you understand the place of a Chancellor, but done him much right also, in giving notice unto those that were present that you have received such instructions from his Majesty; whose honour will be so much the greater, in that all men will acknowledge the sufficiency and worthiness of his Majesty's choice in preferring a man of such abilities to that place, which besides cannot but be a great advancement and furtherance to his service. And I can assure your lordship, that his Majesty was never so well pleased as he is with this account you have given him of this passage. Thus with the remembrance of my service, I rest

Your lordship's ever at command,
G. Buckingham.

Edinburgh, 18 May, 1617.

Though the precedents your Lordship hath sent to his Majesty touching my Lord Brackley's business do not fully answer the point whereof his Majesty desired to be satisfied, whether such a dignity might be conferred without either the usual ceremonies or delivery of the Patent by his Majesty's own hand, yet having seen a note of some reasons set down by one of the heralds, and considering that himself being founder of all honours hath power to dispose of the form and manner of bestowing them at his pleasure, [he] hath been pleased to dispatch it rather in this time of his journey, than to stay it till his return, when he might be importuned by others for the like who cannot have the same colour to press him so long after.

In pursuance of this resolution Lord Brackley was created Earl of Bridgewater on the 28th of May—by patent: "which now" (says Chamberlain in reporting the fact to Carleton)[2] "will become as good a way to all intents and purposes as by an investiture."

[1] Harl. MSS. 7006. f. 67. [2] June 4, 1617. S. P. Dom. vol. xcii. no. 61.

8.

After the 9th of May we hear no more of Bacon for above a week, owing partly no doubt to his absorption in the work of the Chancery, but possibly also to a fit of the gout, which kept him so often from the Council and Star Chamber that people began to doubt whether he would prove equal to his work. Star Chamber days, says Chamberlain, May 24, "have been few or none this term, or not past once at most, by reason of the Lord Keeper's indisposition, which hath greatly hindered both that Court and the Chancery, and if it should continue would much disturb the whole course of Westminster Hall and the Council table, where matters of greatest moment are still put off and reserved till he may be present. His infirmity is given out to be the gout, and the greatest harm or sense he hath of it is in his heel; and sometimes he takes pleasure to flout and play with his disease; which he says hath changed the old covetous course and is become ambitious; for never beggar had the gout but he. But in truth the general opinion is that he hath so tender a constitution both of body and mind that he will hardly be able to undergo the burden of so much business as his place requires; and that if he do not rouse and force himself beyond his natural inclination, both private subjects and the commonwealth will suffer much."[1]

We shall see presently how groundless this apprehension was, as far at least as the business of the Chancery was concerned. It is true that he was unable to attend the Council on the 21st, and that owing to his absence nothing was done, and it may be that he had missed two Star-chamber days out of three. But he had appeared two days before in the Common Pleas, the Exchequer, and the Chancery, for the promotion of Judges; and on that occasion made the following short but weighty speeches. I see indeed that in Mrs. Everett Green's Calendar the two first are assigned respectively to the 2d and the 3d of May: I do not know on what authority. My reason for assigning them to the 19th is that Chamberlain in the letter just quoted (writing on the 24th of May—which was Saturday) reports that "on Monday Sir John Denham was sworn a Baron of the Exchequer in the room of Altham, and Serjeant Hutton a Judge of the Common Pleas in place of Nicol; and Sir William Jones of Lincoln's Inn sworn Chief Justice of Ireland."

These speeches are all printed in the 'Resuscitatio,' and there are also manuscript copies at the Record Office in the hand of Edward Sherburn and with Sir Dudley Carleton's dockets, agreeing with

[1] Chamberlain to Carleton, 24 May 1617. S. P. Dom. James I. vol. xcii. no. 42.

those in the 'Resuscitatio' except for a few verbal differences. There is no doubt therefore of their authenticity, though they are probably reports made either from recollection or anticipation. They may be notes of what he intended to say, or remembrances of what he had said; and are equally valuable to us, as evidence of his views, upon either supposition. How far they represent the words actually spoken is a thing less easy to determine, and in this case of no consequence. But I have some reason to think that the difference is considerable. For there is another report[1] entitled "notes of the Lord Keeper Bacon's speech to Sir William Jones in Chancery when he was sent to be Chief Justice of Ireland," such as an intelligent listener may very likely have made from the Speaker's mouth, and yet differing a good deal from this.

I have taken Rawley's copy for the text and given the various readings of Sherburn's MS. in the notes.

THE LORD KEEPER'S SPEECH IN THE COMMON-PLEAS, TO JUSTICE HUTTON, WHEN HE WAS CALLED TO BE ONE OF THE JUDGES OF THE COMMON-PLEAS.[2]

Mr. Serjeant Hutton,

The King's most excellent Majesty, being duly informed of your learning, integrity,[3] discretion, experience, means, and reputation in your country, hath thought fit not to leave you these talents to be employed upon yourself only, but to call you to serve himself and his people, in the place of one of his[4] Justices of the[5] court of common-pleas.

This court where you are to serve, is the local center and heart of the laws of this realm. Here the subject hath his assurance by fines and recoveries. Here he hath his fixed and invariable remedies by *præcipes* and writs of right. Here Justice opens not by a by-gate of privilege, but by the great gate of the King's original writs out of the Chancery. Here issues[6] process of utlawry; if men will not answer law in this center of law, they shall be cast out of the circle of law.[7] And therefore it is proper for you by all means[8] with your wisdom and fortitude to maintain the laws of the realm. Wherein, nevertheless, I would not have you head-strong, but heart-strong; and to

[1] Harl. MSS. 1576. f. 151.
[2] Resuscitatio, p. 93. (R.) Copy by E. Sherburn, S. P. Dom. James I. vol. xcii. no. 6. (S.)
[3] *honesty and integrity.* S.
[4] *the.* S.
[5] *this.* S.
[6] *runs.* S.
[7] So S. R. omits 'of the circle of law.'
[8] S. omits 'by all means.'

weigh and remember with yourself, that the twelve Judges of the realm are as the twelve lions under Salomon's throne: they must be lions, but yet lions under the throne:[1] they must shew their stoutness in elevating and bearing up the throne.

To represent unto you the lines and portraitures of a good Judge:—The first is, That you should draw your learning out of your books, not out of your brain.

2. That you should mix well the freedom of your own opinion with the reverence of the opinion of your fellows.

3. That you should continue the studying[2] of your books, and not to spend on upon the old[3] stock.

4. That you should fear no man's face, and yet not turn stoutness into bravery.

5. That you should be truly impartial, and not so as men may see affection through fine carriage.

6. That you be a light to jurors to open their eyes, but not a guide to lead them by the noses.

7. That you affect not the opinion of pregnancy and expedition by an impatient and catching hearing of the counsellors at the bar.

8. That your speech be[4] with gravity, as one of the sages of the law; and not talkative, nor with impertinent flying out to shew learning.

9. That your hands, and the hands of your hands (I mean those about you), be clean, and uncorrupt from gifts, from meddling in[5] titles, and from serving of turns, be they of great ones or small ones.

10. That you contain the jurisdiction of the[6] court within the ancient merestones, without removing the mark.[7]

11. Lastly, That you carry such a hand over your ministers and clerks, as that they may rather be in awe of you, than presume upon you.

These and the[8] like points of the duty of a Judge, I forbear to enlarge; for the longer I have lived with you, the shorter shall my speech be to you; knowing that you come so furnished and prepared with these good virtues, as whatsoever I shall say cannot be new unto you. And therefore I will say no more unto you at this time, but deliver you your patent.

[1] So S. R. omits the last clause.
[2] *revolving.* S.
[3] S. omits *old.*
[4] *be rather.* S.
[5] *with.* S.
[6] *your.* S.
[7] *marks.* S.
[8] *other.* S.

The Lord Keeper's Speech, in the Exchequer, to Sir John Denham, when he was called to be one of the Barons of the Exchequer, in 1617.[1]

Sir John Denham,

The King, of his grace and favour, hath made choice of you to be one of the Barons of the Exchequer, to succeed to one of the gravest and most reverend Judges of this kingdom; for so I hold Baron Altham was. The King takes you not upon credit but proof, and great proof, of your former service; and that in both those kinds wherein you are now to serve: for as you have shewed yourself a good judge between party and party, so you have shewed yourself a good administer of the revenue,[2] both when you were Chief Baron, and since as councillor of estate there in Ireland, where the council (as you know) doth in great part manage and mesnage[3] the revenue.

And to both these parts I will apply some admonitions, not[4] vulgar or discursive, but apt for the times, and in few words; for they are best remembered.

First therefore, above all you ought to maintain the King's prerogative, and to set down with yourself that the King's prerogative and the law are not two things; but the King's prerogative is law, and the principal part of the law; the first-born or *pars prima* of the law; and therefore in conserving and[5] maintaining that, you conserve and maintain the law. There is not in the body of man one law of the head, and another of the body, but all is one entire law.

The next point that I would now advise you is, that you acquaint yourself diligently with the revenue, and also with the ancient records and precedents of this court. When the famous case of the Copper Mines was argued in this court, and judged for the King, it was not upon the fine reasons of wit; as that the King's prerogative drew to it the chief *in quaque specie;* the lion is the chief of beasts, the eagle the chief of birds, the whale the chief of fishes, and so copper the chief of minerals; for these are but dalliances of law and ornaments: but it was

[1] 'Resuscitatio,' p. 91. (R.) Copy by E. Sherburn, on the same sheet as the last; docketed by Carleton, "My Lord Keeper's speech to Serjeant Hutton and Sir J. Denham." (S.)

[2] *king's revenue.* S.

[3] So S. R. has *messuage.*

[4] So S. R. has *but not.*

[5] So S. R. has *or.*

the grave records and precedents that grounded the judgment of that cause;[1] and therefore I would have you both guide and arm yourself with them against these vapours and fumes of law, which are extracted out of men's inventions and conceits.

The third advice I will give you hath a large extent; it is, that you do your endeavour in your place so to manage the King's justice and revenue, as the King may have most profit, and the subject least vexation: for when there is much vexation to the subject and little benefit to the King, then the Exchequer is sick: and when there is much benefit to the King, with less[2] trouble and vexation to the subject, then the Exchequer is sound. As for example; if there shall be much rakeing[3] for the King's old debts, and the more fresh and late debts shall be either more negligently called upon or over-easily discharged or over-indulgently stalled: or if the number of informations be many, and the King's part or fines for[4] compositions a trifle; or if there be much ado to get the King new land upon concealments,[5] and that which he hath already be not well known and surveyed, nor the woods preserved, (I could put you many other cases;) this falls within that which I term the sick estate[6] of the Exchequer; and this is that which makes every man ready with their undertakings and their projects to disturb the ancient frame of the Exchequer (than the which, I am persuaded, there is not a better): this being the burthen of the song: That much goeth out of the subject's purse, and little cometh to the King's purse. Therefore, give them not that advantage so to say.[7] Sure I am, that besides your own associates, the Barons, you serve with two superior great officers, that have[8] honourable and true ends and desire[9] to serve the King and right the subject.

There resteth, that I deliver you your patent.

[1] *the case.* S. [2] *the less.* S. I think it should be *least.*
[3] So S. R. has *racking.* [4] *of.* S.
[5] '*to get the King into land unto concealments.*' S.
[6] *which I said was the disease.* S.
[7] The whole passage from '*this*' to '*say*' is omitted in S.
[8] *than the which there were never any that had more.* [9] *desires.* S.

The Speech used by Sir Francis Bacon, Lord Keeper of the Great Seal of England, to Sir William Jones, upon his calling to be Lord Chief Justice of Ireland, 1617.[1]

Sir William Jones,

The King's most excellent Majesty, being duly informed of your sufficiency every way, hath called you, by his writ now returned, to the state and degree of a serjeant at law; but not to stay there, but, being so qualified, to serve him as his Chief Justice of his King's Bench in his realm of Ireland. And therefore that which I shall say to you, must be applied not to your serjeant's place (which you take but in passage) but to that great place where you are to settle; and because I will not spend time to the delay of the business of causes of the court,[2] I will lead you the short journey by examples, and not the long by precepts.

The place that you shall now serve in, hath been fortunate to be well served in four successions before you. Do but take unto you the constancy and integrity of Sir Robert Gardiner; the gravity, temper, and discretion[3] of Sir James Lea; the quickness, industry, and dispatch of Sir Humphry Winch; the care and affection to the commonwealth, and the prudent and politic administration of Sir John Denham; and you shall need no other lessons. They were all Lincoln's-Inn men as you are; you have[4] known them as well in their beginnings as in their advancement.

But because you are to be there not only Chief Justice, but a councillor of estate, I will put you in mind of the great work now in hand, that you may raise your thoughts according unto it.

Ireland is the last *ex filiis Europæ* which hath[5] been reclaimed from desolation and a desert (in many parts) to population and plantation; and from savage and barbarous customs to humanity and civility. This is the King's work in chief. It is his gar-

[1] Rawley's 'Resuscitatio,' p. 89 (R.), compared with a transcript in E. Sherburn's hand, docketed by Carleton, "My Ld. Keeper's Speech to Sir William Jones." S. P. Ireland, James I. 1617. (S.)

[2] *of causes and hearing.* S.

[3] So S. R. has *direction.*

[4] *may have.* S.

[5] *hath come in and been.* S.

land of heroical virtue and felicity, denied to his progenitors, and reserved to his times. The work is not yet conducted to perfection, but is in fair advance. And this I will say confidently, that if God bless that[1] kingdom with peace and justice, no usurer is so sure in seven years space to double his principal with interest, and interest upon interest, as that kingdom is within the same time to double the stock both of wealth and people.[2] So as that kingdom, which once within these twenty years wise men were wont to doubt whether they should wish it to be in a pool, is like now to become almost a garden, and younger[3] sister to Great Britain. And therefore you must set down with yourself to be not only a just governor, and a good Chief Justice (as if it were in England), but under the King and the Deputy you are to be a master-builder, and a master-planter, and reducer of Ireland. To which end I will trouble you at this time but with three directions.

The first is, that you have special care of the three plantations. That of the north, which is in part acted: that of Wexford,[4] which is now in distribution; and that of Longford and Letrim, which is now in survey. And take this from me, that the bane of a plantation is, when the undertakers or planters make such haste to a little mechanical present profit, as disturbeth the whole frame and nobleness of the work for times to come. Therefore hold them to their covenants, and the strict[5] ordinances of plantation.

The second is, that you be careful of the King's revenue, and by little and little constitute him a good demesne, if it may be;[6] which hitherto is little or none. For the King's case is hard,[7] when every man's land shall be improved in value with increase manifold, and the King shall be tied to his dry rent.[8]

My last direction (though first in weight) is, that you do all good endeavours to proceed resolutely and constantly, and yet with due temperance and equality, in matters of religion; lest

[1] So S. R. has *this kingdom.*

[2] "*to double the rest (sic) and principal thereof, yea and perhaps to treble it.*" S. [3] *a younger.* S. [4] *Weshford.* R. [5] *true.* S.

[6] S. omits *if—be.* [7] *And the King's case will be hard, that.* S.

[8] The Notes in Harl. MSS. 1576, give this passage thus:—"Most of the land hath passed through his hand; yea, and yet when the sun shines or rains in Ireland, it shines not nor rains not on the King's revenew here. And when every man's land rises three fold, four fold, and five fold, the King shall be tied to his dry rent."

Ireland civil become more dangerous[1] to us than Ireland savage. So God give you comfort of your place.[2]

[*After Sir William Jones's Speech:*]

I had forgotten one thing, which was this. You may take exceeding great comfort, that you shall serve with such a Deputy; one that (I think) is a man ordained of God to do great good to that kingdom. And this I think good to say to you, that the true temper of a Chief Justice towards a Deputy is, neither servilely to second him, nor factiously to oppose him.[3]

9.

The short letter which follows deserves attention, because it was brought up again two months later in a way for which Bacon, I am sure, was not at all prepared. It would not be well, however, to anticipate the story; and therefore I shall only say now that it was imputed to him by the King as a grave offence, and leave the reader for the present to guess wherein the offence lay.

To the R. Hon. his very good L. the Earl of Buckingham, of his M.'s most Hon. Council of England and Scotland.[4]

My very good Lord,

I know your Lordship hath a special care of anything that concerneth the Queen. She was entered into dislike of her Solicitor, this bearer Mr. Lowder, and resolute in it. To serve and not to please is no man's condition. Therefore upon knowledge of her pleasure he was willing to part with his place, upon hope not to be destituted, but to be preferred to one of the Baron's places in Ireland. I pray move the King for him, and

[1] *Be worse.* S. [2] The last sentence omitted in the MS.

[3] "The reply of my Lord Keeper after his [Sir W. Jones's] answer" is given thus in the Harl. MS.:—"There is a poor herb called Trifolium which I do wear in mine hat—Justice Hutton, Baron Denham, and the Chief Justice of Ireland Jones. For yourself, assure yourself that the King hath the best ear in the world, neither too open nor too much shut, but carried with the best moderation and discretion that ever Prince that wore the crown had. As for my part, your tale shall be truly told, and for that infusion that may be here, doubt not but it shall be."

No part of the reply as given in the other report appears in these notes. And yet it is not likely that such a compliment to the Deputy (Sir Oliver St. John) would have been missed altogether. I fancy this is something like what Bacon said; the other being what he came with the intention of saying.

[4] Fortescue Papers. Original. Own hand.

let his Majesty know from me, that I think (howsoever he pleased not here) he is fit to do his Majesty service in that place; he is grave and formal (which is somewhat there), and sufficient enough for that place. The Queen hath made Mr. Hackwell her solicitor, who hath for a long time taken much pains in her business, wherein she hath done well. He was an opposite in Parliament, as Jones was, that the King hath made Chief Justice of Ireland. But I hold it no ill counsel to win[1] or to remove such men. God preserve and prosper you.

Your true and devote friend and servant,

FR. BACON.

Whitehall, 25 May, 1617.

We shall now have an opportunity of seeing how very wide of the mark "the general opinion" may be (even when collected by so dispassionate and sensible a man as Chamberlain) in its speculations upon the proceedings of men in great place. We have all of us abundant opportunities of seeing exactly the same thing among ourselves, but in history of past times it does not often happen that the general opinion and the particular fact can be brought into such immediate comparison. And in the absence of express contradiction by the event, popular rumours are too commonly accepted as worth very much more in the way of evidence than they really are. Easter term, which began on the 7th of May, ended on the 2nd of June. Bacon's absence on two or three occasions at the council board or Star chamber had alarmed people for the country. The Lord Keeper had not health or strength for his work: what was to become of them private subject and the commonwealth? On the 8th of June Bacon wrote to Buckingham the following letter, which will give the answer.

To the Earl of Buckingham.[2]

My very good Lord,

This day I have made even with the business of the kingdom for common justice. Not one cause unheard. The lawyers drawn dry of all the motions they were to make. Not one petition unanswered. And this I think could not be said in our age before. This I speak not out of ostentation, but out of

[1] I think the word must be either "winne" or "inne." Somebody has read it "joine," and written the word above.

[2] Gibson Papers, vol. viii. f. 65. Fair copy in E. Sherburn's hand. Docketed "8 June. A copie of yr L. lre to my L. of Buckingham."

gladness, when I have done my duty. I know men think I cannot continue, if I should thus oppress myself with business. But that account is made. The duties of life are more than life. And if I die now I shall die before the world be weary of me, which in our times is somewhat rare. And all this while I have been a little unperfect in my foot. But I have taken pains more like the beast with four legs, than like a man with scarce two legs. But if it be a gout (which I do neither acknowledge nor much disclaim) it is a good-natured gout; for I have no rage of it, and it goeth away quickly. I have hope it is but an accident of changing from a field-air to a Thames-air;[1] or rather, I think, it is the distance of the King and your Lordship from me that doth congeal my humours and spirits.

When I had written this letter, I received your Lordship's letter of the third of this present,[2] wherein your Lordship sheweth your solicitous care of my health, which did wonderfully comfort me. And it is true, that at this present I am very well, and my supposed gout quite vanished.

I humbly pray you to commend my service, infinite in desire, howsoever limited in ability, to his Majesty, to hear of whose health and good disposition is to me the greatest beatitude which I can receive in this world. And I humbly beseech his Majesty to pardon me that I do not now send him my account of council business, and other his royal commands, till within these four days; because this flood of business of justice did hitherto wholly possess me; which I know worketh this effect, as it contenteth his subjects, and knitteth their hearts more and more to his Majesty; though I must confess my mind is upon other matters, as his Majesty shall know, by the grace of God, at his return. God ever bless and prosper you.

Your Lordship's true and most
devoted friend and servant,
FR. BACON.

Whitehall, this 8th
of June, 1617.

[1] From Gray's Inn to Dorset House, which had been lent to him while York House was getting ready.

[2] The original letter may be seen in Harl. MSS. 7006. It is merely an affectionate letter of inquiry upon a report (probably from Winwood, May 22) that Bacon had been confined to his chamber. It is chiefly notable as showing how very calm and sweet the weather was, so short a time before the storm which we shall witness presently.

The next letter, written ten days later, shows that his illness had not been of any real consequence.

TO THE LORD VISCOUNT FENTON.[1]

My very good Lord,

I thank your Lordship for your courteous letter. And if I were asked the question I would always choose rather to have a letter of no news than a letter of news; for news imports alteration, but letters of kindness and respect bring that which, though it be no news amongst friends, is more welcome.

I am exceedingly glad to hear that this journey of his Majesty, which I never esteemed [more][2] than a long progress (save that it had reason of state joined with pleasure) doth sort to be so joyful and so comfortable. For your Parliament, God speed it well. And for ours, you know the sea would be calm if it were not for the winds, and I hope the King (whensoever that shall be) will find those winds reasonably well laid. Now that the sun is got up a little higher, God ordains all things to the happiness of his Majesty, and his monarchy. My health, I thank God, is good, and I hope this supposed gout was but an incomer. I ever rest

Your Lordship's affectionate
and assured friend,
FR. BACON, C. S.

Whitehall, June 18th.

Of the account of Council business, which Bacon evidently expected to have ready for the King before the month of June, I have not found any traces. But on the 10th of July, the last day of Trinity term, he delivered the usual charge to the Judges; of which we have the following report in the 'Resuscitatio'—I presume his own. There is also a note of it in Harl. MSS. 1576, by one who was present, but could not keep pace with the speaker; which agrees with this substantially. And there is in the same volume another manuscript copy of it: a bad copy, apparently taken from a good one.

[1] Gibson Papers, vol. viii. f. 66. Copy in Meautys's hand. Docketed "18 June 1617. A copie of a l're sent by yo^r Lp. to the Lord Fenton."

[2] "More," which is omitted in the MS., was supplied by Birch. Perhaps "other" would have been a likelier word.

The Speech which was used by the Lord Keeper of the great seal in the Star Chamber, before the Summer Circuits, the King being then in Scotland, 1617.[1]

The King by his perfect declaration published in this place concerning Judges and Justices, hath made the speech of his Chancellor, accustomed before the Circuits, rather of ceremony than of use. For, as in his book to his son he hath set forth a true character and platform of a King, so in this his speech he hath done the like of a Judge and Justice: which showeth that as his Majesty is excellently able to govern in chief, so he is likewise well seen and skilful in the inferior offices and stages of justice and government; which is a thing very rare in Kings.

Yet nevertheless somewhat must be said, to fulfil an old observance: but yet upon the King's grounds, and very briefly: for as Salomon saith in another case, *In these things, who is he that can come after the King?*

First, you that are the Judges of Circuits are as it were the planets of the Kingdom (I do you no dishonour in giving you that name), and no doubt you have a great stroke in the frame of this government, as the other have in the great frame of the world. Do therefore as they do; move always and be carried with the motion of your first mover, which is your Sovereign. A popular Judge is a deformed thing: and *plaudite's* are fitter for players than for magistrates. Do good to the people, love them and give them justice. But let it be, as the Psalm saith, *nihil inde expectantes;* looking for nothing, neither praise nor profit.

Yet my meaning is not, when I wish you to take heed of popularity, that you should be imperious and strange to the gentlemen of the country. You are above them in power, but your rank is not much unequal; and learn this, that power is ever of greatest strength when it is civilly carried.

Secondly, You must remember, that besides your ordinary administration of justice, you do carry the two glasses or mirrors of the state; for it is your duty in these your visitations to represent to the people the graces and care of the King: and again, upon your return, to present to the King the distastes and griefs of the people.

[1] 'Resuscitatio,' p. 87.

Mark what the King says in his book: *Procure reverence to the King and the law; inform my people truly of me,* (which we know is hard to do according to the excellency of his merit, but yet endeavour it,) *how zealous I am for religion; how I desire law may be maintained and flourish; that every court should have his jurisdiction; that every subject should submit himself to the law.* And of this you have had of late no small occasion of notice and remembrance, by the great and strait charge that the King hath given me, as keeper of his seal, for the governing of the Chancery without tumour or excess.

Again, *e re nata,* you at this present ought to make the people know and consider the King's blessed care and providence in governing this realm in his absence; so that sitting at the helm of another kingdom, not without great affairs and business, yet he governs all things here by his letters and directions, as punctually and perfectly as if he were present.

I assure you, my Lords of the Council and I do much admire the extension and latitude of his care in all things.

In the High Commission he did conceive a sinew of government was a little shrunk; he recommended the care of it.

He hath called for the accounts of the last circuit from the Judges to be transmitted unto him in Scotland.

Touching the infestation of Pirates, he hath been careful, and is, and hath put things in way.

All things that concern the reformation or the plantation of Ireland, he hath given in them punctual and resolute directions. All this in absence.

I give but a few instances of a public nature; the secrets of counsel I may not enter into; though his dispatches into France, Spain, and the Low-Countries, now in his absence, are also notorious as to the outward sending. So that I must conclude that his Majesty wants but more kingdoms, for I see he could suffice to all.

As for the other glass I told you of, of representing to the King the griefs of his people, without doubt it is properly your part; for the King ought to be informed of any thing amiss in the state of his countries from the observations and relations of the Judges (that indeed know the pulse of the country) rather than from discourse. But for this glass, (thanks be to God) I do hear from you all that there was never greater peace,

obedience, and contentment in the country; though the best governments be always like the fairest crystals, wherein every little icicle or grain is seen, which in a fouler stone is never perceived.

Now to some particulars, and not many. Of all other things I must begin as the King begins; that is, with the cause of religion; and especially the hollow church-papist. St. Augustin hath a good comparison of such men, affirming that they are like the roots of nettles, which themselves sting not, but yet they bear all the stinging leaves. Let me know of such roots, and I will root them out of the country.

Next, for the matter of religion. In the principal place, I recommend both to you and to the Justices the countenancing of godly and zealous preachers. I mean, not sectaries or novellists, but those which are sound and conform; but yet pious and reverend. For there will be a perpetual defection, except you keep men in by preaching, as well as law doth by punishing; and commonly spiritual diseases are not cured but by spiritual remedies.

Next, let me commend unto you the repressing (as much as may be) of faction in the countries, of which ensue infinite inconveniences, and perturbations of all good order, and crossing of all good service in court or country, or wheresoever. Cicero, when he was consul, had devised a fine remedy, (a mild one, but an effectual and apt one;) for he saith, *Eos qui otium perturbant, reddam otiosos. Those that trouble others' quiet, I will give them quiet;* they shall have nothing to do, nor no authority shall be put into their hands. If I may know from you of any who are in the country that are heads or hands of faction, or men of turbulent spirits, I shall give them Cicero's reward, as much as in me is.[1]

To conclude, study the King's book, and study yourselves how

[1] In March when Bacon informed the King that the Council had not thought it necessary to issue a Proclamation ordering gentlemen from London into the country, he added that when the justices attended at the Star Chamber as usual at the end of Trinity term he would "give a charge concerning the same." And though the subject is not alluded to in this report, it appears that he did not forget it. "A third thing," says the note in the Harleian MS., "is the repairing of gentlemen into the country: which they do not much the more in respect of the King's absence. But as far as I can see, the city wants [them?] not, it is so settled. But this were more fit at Christmas time than now, when gentlemen should show their hospitality in the country; for now I think the smell of London will drive them far enough," or as the other MS. has it, "for the strong breath of London will drive you to seek the fresh of the country."

you profit by it, and all shall be well. And you the Justices of Peace in particular, let me say this to you; Never King of this realm did you so much honour as the King hath done you in his speech, by being your immediate director, and by sorting you and your service with the service of ambassadors, and of his nearest attendants. Nay more, it seems his Majesty is willing to do the state of Justice of Peace honour actively also; by bringing in, with time, the like form of commission into the government of Scotland, as that glorious King, Edward the third, did plant this commission here in this kingdom. And therefore you are not fit to be copies, except you be fair written without blots or blurs, or anything unworthy your authority. And so I will trouble you no longer for this time.

10.

It was about this time that Bacon had the pleasure of welcoming his old friend Toby Matthew back into England. He had always kept up a correspondence with him, and there are several of his letters among the papers at Lambeth, which, having been first printed by Birch in his "Letters, etc., of the Lord Chancellor Bacon," and afterwards included in his edition of the entire works, have been retained by all succeeding editors. In this collection I do not include letters addressed to Bacon by other people, except where they help to throw light upon his own, or upon himself,—upon his letters or his life,—which I have not hitherto found to be the case with Toby Matthew's, otherwise than as showing the continuance on both sides of a very warm interest and affection, stimulated by common studies and mutual services. The services had been hitherto from the nature of the case all on Bacon's side. For Matthew was still an exile, longing to return; and as there was no reason for keeping him in exile except the supposed necessity of making him take the oath of allegiance, (for though inexorably faithful to his new religion, he appears to have continued perfectly loyal to England), all the influence that Bacon had was used in his favour. This by itself was not very much, I fancy. But in 1616 fortune presented Matthew, who was then at Brussels, with a new chance. After his banishment from England in February 1607–8 (see Vol. IV. ch. i. § 4) he had gone into France and there made the acquaintance of Mr. Villiers.[1] Mr. Villiers, who was then nobody, had suddenly become the most powerful instrument in England for

[1] Note from Dr. Neligan's MS.

overcoming a scruple in the King's mind; and Matthew took advantage of the opportunity to press his suit. As a mediator both with Villiers and the Archbishop and the King, Bacon could be of great use; and though the complimentary phrases used by a fine and ingenious writer in expressing his obligations to such a man are not to be quoted as historical evidence, it is plain that Matthew really attributed the success of the mediation (so far as it was successful) in great part to Bacon's zeal and judgment. A letter which he certainly received from him about the middle of August 1616 would have given us better information; but the copy which was once among his papers[1] has unfortunately disappeared; and all we know of it is gathered from the terms in which it was acknowledged. These therefore I give in full.

"I have been made happy by your Honour's noble and dear lines of the two and twentieth of July, and the joy that I took therein was only kept from excess by the notice they gave me of some intentions and advices of your Honour which you had been pleased to impart to other of my friends with a meaning that they should acquaint me with them, whereof they have entirely failed. And therefore (if still it should import me to understand what they were) I must be enforced to beg the knowledge of them from yourself. Your Honour hath by this short letter delivered me otherwise from a great deal of laborious suspense. For (besides the great hope you give me of being so shortly able to do you reverence) I am come to know that by the diligence of your favour towards me my Lord of Canterbury hath been drawn to give way, and the Master of the Horse hath been induced to move. That motion I trust will be granted howsoever, but I should be out of fear thereof if, when he moves the King, your Honour would cast to be present; that if his Majesty should make any difficulty, some such reply as is wont to come from you in such cases may have power to discharge it."[2]

The difficulty seems now to have been entirely with the King. Chamberlain, who had an interest in Matthew as a friend of Carleton's, spoke to Winwood in favour of his suit on the 11th of October, who told him plainly "that the King would not hear of it; and yet he had both moved it himself, and got the Lord Villiers, for the acquaintance he had abroad with Mr. Matthew, to move it likewise; but with the like success. Yet he says that if he could be brought to take the oath of allegiance he would not leave urging till he had effected it."[3] In the beginning of December Bacon was again em-

[1] See entry of a letter in Stephens's catalogue; date "23 July 1616," beginning "you might have assured:" subject, "touching his return:" address "Mr. Matthews."

[2] Gibson Papers, vol. viii. f. 46, dated 1 September 1616, *new style*.

[3] Court and Times of James I. vol. i. p. 428.

ployed in the negotiation; as I gather from another entry in Stephens's catalogue;[1] but in what way and with what success we do not know. All we know is that Matthew obtained leave to return (though subject to some conditions of restraint)[2] in May, and that in the middle of July he arrived. On the 18th Chamberlain saw him at Winwood's house: who "used him," he says, "kindly, and dealt earnestly with him to take the oath of allegiance; but as far as I could perceive it was lost labour; though he told him without doing it he was verily of opinion the King would not endure him long here."[3] Bacon, I imagine, had undertaken to be answerable for his behaviour. For it was as his guest that he remained in England.[4] "Perhaps (adds Chamberlain) he presumes upon my Lord Keeper's favour, which indeed is very great now at first, if it continue; for he lodgeth him in York House, and carries him the next week along with him to Gorhambury by St. Albans." So great indeed was the favour he showed him, that people began to think it too much. For writing again three weeks after, Chamberlain reports him still at Gorhambury; "being so exceedingly favoured and respected by that Lord that it is thought *aliquid nimium*, that a man of his place should give so much countenance to one so affected. And some stick not to say that former private familiarity should give place to public respects."[5] It could not be expected that when all papists were so much suspected and disliked as they then were, attentions of this kind to a pervert and a recusant would escape popular censure. But they were open to no just objection, and were of important service to a valued friend; whose society we leave Bacon to enjoy during the short interval of fair weather which preceded the squall to be described in the next chapter.

[1] Date "9 Dec. 1616." Beginning "The only cause why." Subject "About suing for his return." Address "Mr. Matthews."

[2] Chamberlain to Carleton, 10 May, 1617.

[3] Id. 19 July 1617. S. P. vol. xcii. no. 96.

[4] "Toby Matthew is received with great grace by the Lord Keeper and lodged in his house, and resides a kind of prisoner with him until the return of the King." George Gerrard to Sir D. Carleton, 22 July, 1617. Id. ibid. no. 101.

[5] 9 Aug. 1617. Id. vol. xciii. no. 15.

CHAPTER V.

A.D. 1617. JUNE–SEPTEMBER. ÆTAT. 57.

1.

EARLY in July Bacon received a letter from a friend[1] who had been to the Court in Scotland, giving a favourable report of the progress of business in the session of Parliament which had just closed. The business I need not meddle with, as it does not concern any part of his correspondence. But the concluding paragraph seems to imply some apprehension of trouble in store for Bacon himself.

"I have made good profit," he says, "of my journey hither; for I have gotten a transcript of the speech which your Lordship did deliver at your first and happy sitting in the Chancery; which I could not gain in England. It hath been shewed to the King, and received due approbation. The God of Heaven, all-wise and all-sufficient, guard and assist your Lordship in all your actions; for I can read here whatsoever your Lordship doth act there; and your courses be such as you need not to fear to give copies of them. But the King's ears be wide and long, and he seeth with many eyes. All this works for your honour and comfort. I pray God nothing be soiled heated or cooled in the carriage. Envy sometimes attends virtues and not for good; and these bore certain proprieties and circumstances inherent to your Lordship's mind, which men may admire, I cannot express. But I will wade no further herein lest I should seem eloquent," etc.

Whatever these vague hints meant, it was true that Bacon's favour with the King and Buckingham was in great danger at this time; and the danger had arisen in an unsuspected quarter. We left Sir Edward Coke last November preparing to follow the counsel of his anonymous adviser and "learn of the unjust steward to make friends of the

[1] Dated June 28, 1618. S. P. vol. xcii. no. 103 I.

unrighteous Mammon." It was a new part for him, and the harder to play because he could not altogether lay aside his old character. But the force, and perhaps I should add the coarseness, of his nature carried him through, and he succeeded in the end in getting what he wanted. His youngest daughter was a fit match in point of age for Sir John Villiers, Buckingham's brother; and he had the means of making it a desirable match in point of wealth. Buckingham, who had never come into personal collision with him and was always eager to advance his own kindred, took him into favour at once; and the King, who in spite of continual collisions and many causes of irritation and not unreasonable displeasure, seems to have retained a respect and even a kind of liking for the man, could not be long at enmity with one whom Buckingham favoured. Within less than a month from the time when Coke received his *supersedeas* we find symptoms of returning grace.

"Sir Edward Coke," writes Edward Sherburn to Carleton on the 7th of December 1616, "was the last week with the King at Newmarket, and kissing his M. hands he received some kind promises also, which was to this effect: That although his M. had removed him from the place of Chief Justice for some special ends, as holding him not altogether so fit a man to do his M. service in that office, yet his meaning was not to lose so good a servant, but that he would have him in remembrance and employ him in some other condition. Which whether it may content Sir Edward, I know not: but I am sure the generality will be much affected to see him restored to honour."[1]

Again on the 14th,—

"Sir Edward Coke hath been again with his M. since my last to your Lp. and it is generally reported that his M. will create him a Baron, sometime these holidays; for either his friends (whereof the Queen and Prince are two) or else his money, or both together, hath so turned the current, as your Lp. may see which way the tide begins to run."

To the same effect, Chamberlain, writing a week later, reports,—

"The Lo. Coke was twice with the King at Newmarket, so well and graciously used that he is as jocund and jovial as ever he was. It is generally said he shall shortly be made a Baron: but some interpret this kindness to be but for the compassing of a match for the L. Villiers' brother with one of his daughters."[2]

But though the way seemed smooth, there were obstructions both in himself and in his house. For himself, he could not, when it came

[1] S. P. Dom. James I. vol. lxxxix. no. 69.
[2] Chamberlain to Carleton. 21 Dec. 1616.

to the point, make up his mind to part with so large a portion as was expected; while his wife was averse to the match altogether, and having a will about as strong as his own, and accustomed to choose the other way, was not likely to be accommodating. Already he was engaged in a dispute with her concerning the administration of her first husband's property, which had to be brought before the Council table; whereby the domestic dissension became the lawful property of Paul's walk, and supplied the newsmen of the time with very good entertainment in the absence of the Court. It happened also very unluckily that a suit for damages was at the same time pending against him on account of an act done while he was Chief Justice; he having taken ordinary bail for the appearance of an Englishman to answer a charge of piracy against France, and thereby let him escape: an act which it seems no one but himself would undertake to justify; and which there were several willing enough to aggravate. Our knowledge of the proceedings in Council to which these things led happens to come from persons who had unusually good means of information; and (being very good reporters) they shall tell the story themselves.

On the 15th of March, Chamberlain wrote to Carleton:

"The Lord Coke is left in the suds, but sure it is God's doing, according to the old saying, *perdere quos vult Jupiter prius dementat.* For if he had had the grace to have taken hold of the match offered by Sir John Villiers, it is assuredly thought that before this day he had been Lord Chancellor. But standing on terms to give but 10,000 marks with his daughter, when £10,000 was demanded, and sticking at £1000 a year during her life, (together with some idle words that he would not buy the King's favour too dear, being so uncertain and variable), he hath let slip the occasion, and brought himself in danger (besides the disgrace) of paying double that sum, if he be convicted in the Star Chamber of somewhat that it is thought will be proved against him."[1]

On the 18th of May we hear of him again from a still better authority,—Secretary Winwood writing to Sir Thomas Lake:

"We have had before us the Lady Hatton and Sir Edward Coke. I could have wished between themselves by common friends their differences had been determined. I believe he will acquit himself of that imputation which is laid upon him. But I doubt the matter of the bail in the cause of the governor of Dieppe will lie more heavy upon his heart. For his brother Judges do clear themselves, and it cannot be denied but the carriage was foul, and satisfaction must be made either by him or by the King. On Wednesday next Sir Ed. Coke is to appear before the Lords in both causes."[2]

[1] S. P. Dom. James I. vol. xc. no. 122. [2] Ibid. vol. xcii. no. 27.

Again on the 24th Chamberlain reports to Carleton:

"The Lord Coke and his Lady have great wars at the Council table. . . . . What passed yesterday I know not yet. But the first time she came accompanied with the Lord Burghley and his Lady, the Lord Davers, the Lord Denny, Sir Thomas Howard and his Lady, with I know not how many more, and declaimed bitterly against him, and so carried herself that divers said Burbage could not have acted better. Indeed it seems he hath carried himself very simply (to say no more) in divers matters, and no doubt he shall be sifted thoroughly; for the King is much incensed against him still, and by his own weakness he hath lost those few friends he had."[1]

The nature of the dispute between the husband and wife is partly explained by another of Carleton's correspondents—George Gerrard: who writes on the 4th of June:—

"The Lady Hatton accused her husband by way of petition to the Council table for a contempt against the King in menacing her that if she set her hand unto those articles which the King had commanded him and my Lord of Exeter, he would make himself whole, double and treble, out of her estate. The business concerned Sir Rob. Rich and Sir Chr. Hatton. Upon the delivery of this petition Sir Edward Coke was sent for before the Council. A day was appointed for hearing of this business, when I was present. It grieved me to hear such differences between man and wife; but counsel of both sides speaking, the business was extremely aggravated. She chargeth him of menacing her of defeating her of her jointure; of having a propriety in her purchased land which he will not relinquish; His counsel make answer and charge her for having disfurnished and taken away out of three of his houses all hangings, plate, and household stuff, and also that she gave him to his face or by letter these unfit words of false treacherous villain. My Lord Keeper, willing to shut up this business, made a motion for the referring of it to the Lord Carew and the Chancellor of the Exchequer; who have since compromised the differences to both their contentments."[2]

That the differences were settled for the time to their mutual satisfaction, we know by a letter from Winwood to Lake; which contains also intelligence of the result of the inquiry concerning the bailing of the pirate, and presents Coke in an attitude in which we have not hitherto seen him—acknowledging an error.

"The differences between Sir Edward Coke and his Lady are fully accommodated and determined to their mutual contentment. Now Sir Ed. Coke doth treat with the French Ambassador, and doth offer very

[1] S. P. Dom. James I. vol. xcii. no. 42. [2] Ibid. no. 62.

frankly £2000 for the error he committed about the bail he took in the King's Bench. The ambassador doth stand stiffly for the whole sum of £4800, which is beyond all moderation, considering that the three sureties are liable to the sentence, against whom he may proceed. My care is to end this dispute, because his M. is particularly engaged in his honour to the satisfaction of the governor."[1]

The terms in which Coke's quarrel with his wife was made up are not stated, but from Chamberlain's report (4 June, 1617) I gather that he did not succeed in carrying it all his own way.

"Sir Edward Coke and his Lady after so much animosity and wrangling are lately made friends; and his curst heart hath been forced to yield to more than ever he meant; but upon this agreement he flatters himself that she will prove a very good wife. He hath likewise compounded with the French ambassador for the hailing of a pirate which lay heavy upon him. Wherein the Queen by Mr. Secretary Winwood's means stood him in great stead: though it hath cost him the setting on, some say very near £4000. But though he held it out a great while, yet he was driven at last to the old rule *redimas te captum quam queas minimo*."[2]

2.

So far, Coke's cause was not prospering. For it does not appear that Buckingham interceded in his behalf; and the King was supposed to be very well pleased with the result of the proceedings. Finding therefore that he had either over-estimated the force of the attraction or under-estimated the force of resistance on the other side, and that he must give way in the lesser matter if he would have his way in the greater, he made up his mind to mend his offer. About the middle of June he imparted his wishes to Winwood, who immediately conveyed them to Buckingham. His wish was to be restored to the King's favour, "without which, he at length professed, he could no longer breathe." He "acknowledged with much sorrow his former respectless behaviour" to Buckingham in relation to the treaty of marriage; "desiring that the same might be renewed, with very advantageous proposals on his part." It was on the 16th of June that Winwood sent Buckingham an account of this overture,[3] which appears to have taken effect immediately. The treaty of marriage was at once reopened and pursued with eagerness

[1] Winwood to Lake, 2 June, 1617. S. P. Ibid. no. 57.

[2] Ibid. no. 61. A letter from Gerrard of later date (22 July) states £3500 as the sum actually paid. Ibid. no. 101.

[3] See Robert Stephens's introduction to his first collection, p. xlii.; which is my only authority for the contents of this letter. But it agrees very well with the rest of the story.

on both sides; that is to say, by Coke himself on one side, and by the relations of Sir John Villiers on the other. The daughter, so far as I can make out, was passive. Not so the mother. In the articles of agreement upon which the husband and wife had so lately made peace, no provision had been made for this article of *dis*agreement. Lady Hatton (who meaning to leave all her fortune to this daughter, thought she had a right to a voice in the disposal of her) vehemently opposed the match, and pretending that she was precontracted to the Earl of Oxford (who was away in Italy), carried her off privately to a place where she might be safe and free from persecution. And here it is that Bacon makes his first appearance in the business. What part he had taken in it at the Council Board or in private, or whether he had taken any part, we do not know. We have seen that the reference which withdrew their former domestic dispute from public discussion and brought about a reconciliation between the husband and wife was made upon his motion. But the question of the marriage of the daughter had not yet come before the Board, and we have no evidence that he had meddled in it. We shall find however by the next letter that he knew Winwood to have been a principal agent in the making or renewing of the marriage treaty, and that there had been some discussion about it among the Councillors.[1] Now we know that about this time—at least as early as the 5th of July,[2]—he had a quarrel with Winwood; and it seems far from improbable that it arose out of a difference of opinion upon this question; which, being reported to Buckingham, had caused those ominous appearances that led Bacon's correspondent, writing from Edinburgh on the 28th of June, to pray that nothing in the report of his proceedings might be "soiled, heated, or cooled" in its passage to the King's ear. It is certain that Buckingham was already out of humour with him for some reason. But however that may be, it was impossible now for Bacon to keep clear of the business any longer. For on finding that the mother had stolen away the daughter from her father's custody, Lady Compton, the mother of the Villierses, applied to Bacon on Coke's behalf for a warrant to

[1] See the expression "as *we* hear," twice repeated. The plural can only be understood, I think, as referring to members of the Council.

[2] See Chamberlain's letter of that date. Bishop Goodman says, "The difference fell out upon a very small occasion, that Winwood did beat his dog from lying upon a stool, which Bacon seeing said that every gentleman did love a dog. This passed on; then at the same time having some business to sit upon, it should seem that Secretary Winwood sat too near my Lord Keeper, and his Lordship willed him either to keep or to know his distance. Whereupon he arose from table, *and I think he did him no good office.*" Court of K. James I. vol. i. p. 283. The incident of the dog is probable enough as the *occasion* of such a quarrel, but hardly as the cause.

recover possession of her. If it is true, as stated by Stephens, that a warrant from the King to some of his Privy Council "to summon before them his wife and her confederates, in order to recover his daughter," had already been applied for by Coke through Buckingham, it may be that she made this application to Bacon (though for a very different thing) by Buckingham's direction: in which case his subsequent behaviour would be more easily accounted for. But if so, she certainly did not tell Bacon by whose authority she came: for he could not have written to Buckingham on the subject without taking notice of it; as we shall presently see that he did. The warrant which she asked for he declined to grant—with very good judgment, as the event showed; and at the same time resolved to make an appeal to Buckingham (whose feelings on the subject it is evident that he had not divined), advising him to interpose and forbid all further attempts to force the marriage against the mother's consent.

This was the state of the case when the next letter was written: which I now leave to speak for itself. It comes from Stephens's first collection, in which it is said to be printed "from the original;" one of the many originals known to Stephens of which I have not succeeded in finding any traces.

To the Earl of Buckingham.[1]

My very good Lord,

I shall write to your Lordship of a business which your Lordship may think to concern myself; but I do think it concerneth your Lordship much more. For as for me, as my judgment is not so weak to think it can do me any hurt, so my love to you is so strong, as I would prefer the good of you and yours before mine own particular.

It seemeth Secretary Winwood hath officiously busied himself to make a match between your brother and Sir Edward Coke's daughter: and, as we hear, he doth it rather to make a faction, than out of any great affection to your Lordship. It is true, he hath the consent of Sir Edward Coke (as we hear) upon reasonable conditions for your brother; and yet no better than without question may be found in some other matches. But the mother's consent is not had, nor the young gentlewoman's, who expecteth a great fortune from her mother, which without her consent is endangered. This match, out of my faith and freedom

[1] Stephens's first collection, p. 207. From the original.

towards your Lordship, I hold very inconvenient both for your brother and yourself.

First, He shall marry into a disgraced house, which in reason of state is never held good.

Next, He shall marry into a troubled house of man and wife, which in religion and christian discretion is disliked.

Thirdly, Your Lordship will go near to lose all such your friends as are adverse to Sir Edward Coke; (myself only except, who out of a pure love and thankfulness shall ever be firm to you.)

And lastly and chiefly, (believe it) it will greatly weaken and distract the King's service; for though, in regard of the King's great wisdom and depth, I am persuaded those things will not follow which they imagine, yet opinion will do a great deal of harm, and cast the King back, and make him relapse into those inconveniences which are now well on to be recovered.

Therefore my advice is, and your Lordship shall do yourself a great deal of honour, if, according to religion and the law of God, your Lordship will signify unto my Lady your mother, that your desire is that the marriage be not pressed or proceeded in without the consent of both parents; and so either break it altogether, or defer any further dealing[1] in it, till your Lordship's return: and this the rather, for that (besides the inconvenience of the matter itself) it hath been carried so harshly and inconsiderately by Secretary Winwood, as for doubt that the father should take away the maiden by force, the mother, to get the start, hath conveyed her away secretly; which is ill of all sides. Thus hoping your Lordship will not only accept well, but believe my faithful advice, who by my great experience in the world must needs see further than your Lordship can, I ever rest

Your Lordship's true and most devoted
friend and servant,
FR. BACON, C. S.

I have not heard from your Lordship since I sent the King

[1] 'delay' in Stephens's copy (which is our only authority for this letter, neither the original nor any independent copy having been found), but it cannot be the right word; 'dealing' is my own conjecture.

my last account of council business; but I assure myself you received it, because I sent at the same time a packet to Secretary Laque, who hath signified to me that he hath received it.

I pray your Lordship deliver to his Majesty this little note of Chancery business.

July 12, 1617.

On the afternoon of the day on which this letter was dated (if we may trust a contemporary report sent to Mrs. Sadler, Coke's daughter), Lady Hatton, accompanied by Lord Holles, came in great haste to seek Bacon's assistance. After an overturn by the way, "at last to my Lord Keeper's they come, but could not have instant access to him for that his people told them he was laid at rest, being not well. Then my La. Hatton desired she might be in the next room where my Lord lay, that she might be the first that [should] speak with him after he was stirring. The door-keeper fulfilled her desire and in the mean time gave her a chair to rest herself in, and there left her alone: but not long after, she rose up and bounced against my Lord Keeper's door, and waked him and affrighted him, that he called his men to him; and they opening the door, she thrust in with them, and desired his Lp to pardon her boldness, but she was like a cow that had lost her calf, and so justified [herself] and pacified my Lord's anger, and got his warrant and my Lo. Treasurer's warrant and others of the Council to fetch her daughter from the father and bring them both to the Council."[1]

How it came that she had lost her calf, which according to the last account had been "conveyed away secretly," we learn from Chamberlain, who, writing to Carleton on the 19th of July, gives the following history.

"These eight or ten days here have been great stirs 'twixt the L. Coke and his Lady, about conveying away the younger daughter which she will no ways consent should match with Sir John Villiers, as the Lo. Coke had agreed, with 10,000*l.* ready portion, 2000 marks yearly maintenance during his life, and 1000*l.* land after his decease. If he had offered these conditions when time was, and taken occasion by the forehead when she presented herself, they might have stood him in great stead; whereas now perhaps he doth but catch at the bald side. The daughter was first carried to the Lady Withipole's; from thence privily to a house of the Lord of Argile's at Hampton Court; whence her father with a warrant from Mr. Secretary fetched her, but indeed went further than his warrant

[1] From a letter among the MSS. at Trinity College Cambridge (R. v. 3) dated "Inner Temple 26 July." Addressed to Mrs. Ann Sadler.

and brake open divers doors before he got her. His Lady was at his heels, and if her coach had not tired in the pursuit after him, there was like to be strange tragedies."

So far I believe all is correct. Coke had obtained from Winwood the warrant which Bacon had refused, and this was the use he had made of it. The pressing business on which Lady Hatton came to Bacon was to get a warrant to recover her daughter out of the father's hands. And it may be that she had already had a race with him for the possession of her, and lost it by the breaking down of her carriage or horses. But another correspondent of Carleton's, writing a day or two later, represents her as armed at the time with a warrant from the Council table; an important circumstance of which Chamberlain says nothing, and which I cannot reconcile with the most authentic narrative which has come down to us. At first sight it might be taken for the warrant which, according to Mrs. Sadler's correspondent, she obtained from the Lord Keeper, but that would be inconsistent with the report made by the Council to the King, which, for all positive statements made in it, must be taken for the highest authority: and the truth probably is that as the story passed from mouth to mouth the several stages got mixed together.

"The mother," says this newswriter, "mistrusting something, sent her daughter away privately into the country. Sir Ed. Coke, learns with great cunning where she was, gets a warrant from Sir Ralph Winwood to fetch her where'er she was, goes armed with a great troop of sons and men, bringeth her from thence. The mother she procureth a warrant from the Council table, whereto were many of the Councillors' hands, to take her again from him, goes to meet her as she should come up in the coach, with her the Lord Haughton, Sir Edward Sackville, Sir Rob. Rich, and others, with 3 score men and pistols. They met her not: if they had, there had been a notable skirmish; for the Lady Compton was with Mrs. Franch in the coach, and there was Clem. Coke, my Lord's fighting son: and they all swore they would die in the place before they would part with her. The Council laboured to appease this business. The young gentlewoman was placed with the King's Attorney; from thence brought to Mr. Edmonds; and in the end, after all the clamour, all made friends; and no doubt it will be a match."[1]

Now it is clear from the letter of the Council that no such warrant had been granted to Lady Hatton on Saturday the 12th (which was the day on which Coke brought Mrs. Franche away from her place of retreat); for it was on Sunday the 13th that she

[1] George Gerrard to Sir D. Carleton. 22 July 1617. S. P. vol. xcii. no. 101.

presented a petition to the Board, the tenor of which, and the proceeding upon it, is thus related.

"There was a petition delivered unto us upon Sunday the 13 of this instant by the Lady Hatton, complaining in somewhat a passionate and tragical manner that while by his Majesty's grace she was settling and securing her poor fortune, she was by violence dispossessed of her child; and informing us that in regard of her daughter's weak constitution she had sent her to Sir Edmond Withipole's house for a small time, and that it was not done in any secret manner. Whereupon Sir Edward Coke, never asking or taking accompt what was become of her, but pretending warrant, as he said, from the Board, had the day before, with his son and 10 or 11 servants, weaponed, in violent manner repaired to the house where their daughter was remaining, and with a piece of timber or form broken open the door, and dragged her along to his coach; with many other circumstances too long to trouble his Majesty withal.

"Whereupon, in regard the complaint contained matter of riot and disturbance such as hath not happened since his Majesty's departure into Scotland, we appointed this Tuesday following for the hearing of Sir Edward Coke upon the same complaint.

"The matter being thus ordered, we fell to other business, and while we were in despatch thereof, the Lady Hatton came to the Council-chamber door, and desired to have access to the Board. Which being admitted, she was told that order was taken concerning her petition; but she, making further instance, desired her daughter might be forthwith sent for, in regard she was grown to that weakness by occasion of the violence and fright she had taken as was with speed to be looked unto for the safety of her life; and that therefore she might be brought to London that night, and remain in some place where she might have such help by physic and attendance as were requisite for her preservation and recovery. Which being thought reasonable in humanity, and for avoiding other inconveniences, a letter was written from the Board to Sir Edward Coke, acquainting him with his Lady's complaint and desire, and requiring him to deliver his daughter to Mr. Edmondes, Clerk of the Council, to be brought by him to London, and kept in his house until the hearing of the cause."[1]

The warrant which had so nearly led to a collision (for there *was* a warrant answering the description, though with an important difference) was made out either that night or the next morning, and was a measure adopted by the Council in vindication of their own authority. For it seems that when the Clerk of the Council presented their letter to Coke on Sunday he said that it was late in the evening, that his daughter was in no such extremity, that "upon his peril he would deliver her at Mr. Edmondes' house the next morning,"

[1] Camden Miscellany, 1864.

but "forbore" to do it then. Upon hearing which, the Board, "thinking their order neglected, and doubting whether he would keep promise, gave warrant *with a clause of assistance* to bring her to Mr. Edmondes' house accordingly." Coke however did deliver her the next morning according to his promise; and bringing her luckily by a different road from that which the party with the warrant had taken, they did not meet. The warrant (says the letter from the Council) "by reason of several ways, missed to be served;" and thus the "notable skirmish" which Gerrard thought likely to have ensued was escaped.

The young lady being now under the protection of the Council, their next care was to keep her unmolested.

"After she was brought to Mr. Edmondes' house according to his promise, we, hearing that many friends resorted thither on both sides, and doubting some disorder, gave directions that she should be kept private until the hearing, which was the next day, and two gentlewomen only to be admitted to her company, such as Sir Edward Coke and his Lady should choose; which was accordingly performed, Sir Edward Coke choosing the Lady Compton and his lady the Lady Burleigh."

The next day in the afternoon Coke appeared before the Council to answer the complaint contained in Lady Hatton's petition. He began his answer with a counter charge. He accused her of an intention to carry his daughter into France, in order to break off a match with Sir John Villiers: whom he also accused one of her servants of slandering. The Board declined all discussion as to the fitness of the match, declaring "that they thought that noble gentleman every way a worthy match for his daughter, and did not doubt but that he would seek her in a noble and religious fashion, without any forced consent of the maid, and with consent of both parents; and the rather because part of her fortune did depend upon the mother's disposing;" but called upon him for proof of these charges against his Lady and her servant: which he failed to produce; offering none at all for the first, and none that they considered satisfactory for the second. They then called on him for his answer to the charge of "riot and force:" upon which he did not plead any warrant, but undertook to justify his proceeding by law. This amounted under the circumstances to an assertion that by law any father might at his own discretion break into anybody's house on pretence of seeking a fugitive daughter; and considering who he was that asserted it, they judged it necessary to deal with and settle the question.

"Upon all which matter the Board thought fit that because it appeared

that so great a riot now in the King's absence, and by a person of that quality, was fit severely to be punished; the rather for that he called no constable or other officer unto him, as he confessed, but took upon him, being the party grieved, to be *vindex doloris proprii*, contrary to all government; and for that the King's Attorney being present maintained the law to be to the contrary, so as there was no fit means to admit him to his justification but by a legal prosecution; order was given by the Board that the Attorney General should prefer an information into the Court of Star Chamber against Sir Edward Coke for the force and riot used by him upon the house of Sir Edmond Withipole, to be in that court heard and sentenced as justice shall appertain."

This order was given on Tuesday afternoon the 15th of July, and it was the practical conclusion of the Council for the present upon the allegations in Lady Hatton's petition. But this course would take time, and how was the young lady to be disposed of in the interval?

"To prevent all new occasion of tumult or breach of peace, it was thought fit that their daughter should be disposed into some convenient place agreeable to her worth and quality until further order were taken. For which purpose choice was made, by consent of Sir Edward Coke and his lady, of the house of the Lord Knivett near Staines; and in the mean time, until the Lord Knivett should return his answer, she was disposed to the house of his Majesty's Attorney General. And we likewise enjoined Sir Edward Coke and his lady in the behalf of her friends to forbear all occasion of violence or disturbance whatsoever, as well touching the person of their daughter as any other matter or point concerning that business."

This was the end of that day's work: which I have been the more particular in relating, because it was all done, if not under Bacon's direction, at any rate with his full concurrence and approbation,—as avowed by himself afterwards when to have concurred in it was a matter of impatient reproach with the King and of deep offence with Buckingham. At the time, no doubt, he thought he was doing acceptable service. But before the act of Council recording it could be made ready for despatch, a change had come over the aspect of the case. For the King, with whom there had not been time to communicate on the particular question while it was under deliberation, and whose wishes concerning the match appear to have been known only to Winwood, could see nothing wrong in what Coke had done. In his eyes "the thefteous stealing away of the daughter from her own father" was the great offence; and what followed was but "redress of the former violence."[1] This being so, the prosecu-

[1] See the King's letter to Bacon, printed a little further on.

tion in the Star Chamber could not proceed; the interference of the Council in the second removal of the daughter from her father was by implication censured; and whoever wished to please the King knew that he must take part with those who favoured the match.

How it happened that the King's wishes were known to Winwood and not to Bacon, is not explained. It could not have been an object either with the King or with Buckingham to let the most important member of the Council continue in the belief that he was serving them as they would wish, when he was really crossing their ends.[1] It must surely have been Winwood himself who, having the secret (which he may easily have got from Lake, with whom he was in continual and confidential correspondence), kept it to himself for purposes of his own. That he had for some time had the means of enlightening his fellow councillors, appears from the circumstances under which the revelation was ultimately made. We do not know the exact date: but it must have been between the 15th and the 19th of July that the following scene, as reported by Chamberlain[2] (who may have had it from Winwood himself), took place.

After mentioning the order to prefer a bill against Coke in the Star Chamber (which was made on the 15th of July) he goes on to say—

"He and his friends complain of hard measure from some of the greatest at that board, and that he was too much trampled upon with ill language. And our friend [*i.e.* Winwood] passed not scot free for the warrant; which the greatest [ ]er[3] there said was subject to a *præmunire;* and withal told the Lady Compton that they wished well to her and her sons, and would be ready to serve the Earl of Buckingham with all true affection, whereas others did it out of faction and ambition; which words glancing directly at our good friend, he was driven to make his apology; and to show how it was put upon him from time to time by the Queen and the other parties; and for conclusion showed a letter of approbation of all his courses from the King; making the whole table judge what faction and ambition appeared in this carriage. *Ad quod non fuit responsum.*"

This altered the whole matter. It could not be the business of the King's Council in a case of this kind to work in opposition to his declared purposes. It became their duty not only to suspend,

[1] If Buckingham gave Bacon credit for knowing that Lady Compton applied for the warrant with his concurrence, *he* might suppose that the King's wishes were already known to him. But *Winwood* must have known that they were not: and he cannot have thought that *they* wished Bacon to remain in ignorance.

[2] 19 July, 1617. S. P. vol. xcii. no. 96.

[3] The beginning of this word, which comes at the end of a line, is worn off: but the *er*, which begins the next, is quite legible.

but if possible to reverse their action. Accordingly the Attorney General applied himself to bring about a reconciliation between the parents. The young lady (who had been left under his charge) was on the 18th of July, upon what Chamberlain calls "a palliated agreement between Sir Edward Coke and his Lady," "sent home to Hatton house, with orders that the Lady Compton and her son should have access to win her and wear her." And the following sentence was added by way of postscript to the letter from the Council to the King.

"But now since, this matter seemeth to have had a fairer conclusion; for that we find that the writings are perfected, and not only so, but the parties, Sir Edward Coke and his Lady, reconciled, and the daughter with both their good likings sent to live with her father and mother in Sir Edward Coke's house. Which good end hath been much furthered by the charitable endeavour of his Majesty's Attorney General. And the information, and all other proceedings in the business, is suspended and left wholly to his Majesty's pleasure."

3.

The date of this letter from the Council is not certainly known.[1] But I take it to have been sent on the 19th of July. For Winwood, writing on that day to Lake, says—"By the letters you receive from the Lords you will see what trouble Sir Edward Coke and his Lady have given the Lords."[2] Now the letter in question cannot have been written before the 18th, if Chamberlain's date is correct; and it is not likely that another letter on the same subject was sent at that time. But however that may be, it was written *after* Bacon had heard from Winwood what the King's views were, and *before* he had heard anything from the King himself. His own opinion he supposed the King to know from his letter to Buckingham, but to that he had received no answer. Indeed there had hardly been time as yet. But when a fortnight had passed without bringing one, he wrote directly to the King. His opinion of the impolicy of the match had not been altered by anything which had passed; he was not prepared either to disavow or correct it; and he still wished the King to hear the reasons on which it was grounded;—those reasons especially which concerned the state. What they were is fully explained in the next letter.

[1] The date in the margin of the Council Register (July 11) is an impossible date, as Mr. Gardiner has observed.

[2] S. P. vol. xcii. no. 94.

TO THE KING.[1]

It may please your most excellent Majesty,

I think it agreeable to my duty, and the great obligation wherein I am tied to your Majesty, to be freer than other men in giving your Majesty faithful counsel while things are in passing, and more bond than other men in doing your commandments when your resolution is settled, and made known to me.

I shall therefore most humbly crave pardon from your Majesty if in plainness and no less humbleness I deliver to your Majesty my honest and disinteressed opinion in the business of the match of Sir John Villiers, which I take to be *magnum in parvo*, preserving always the laws and duties of a firm friend to my Lord of Buckingham, whom I will never cease to love, and to whom I have written already, but have not heard yet from him.

But first I have three suits to make to your Majesty, hoping well you will grant them all.

The first is, that if there be any merit in drawing on that match, your Majesty would bestow the thanks, not upon the zeal of Sir Edward Coke to please your Majesty, nor upon the eloquent persuasions or pragmaticals of Mr. Secretary Winwood; but upon them who carrying your commandments and directions with strength and justice, (in the matter of the governor of Diepe, in the matter of Sir Robert Rich, and in the matter of protecting the lady, according to your commandment); have so humbled Sir Edward Coke, as he seeks now that with submission, which (as your Majesty knows), before he rejected with scorn. For this is the true orator that hath persuaded this business, as I doubt not but your Majesty in your excellent wisdom doth easily discover.

My second suit is, that your Majesty would not think me so pusillanimous, as that I, who when I was but Mr. Bacon, had ever through your Majesty's favour good reason at Sir Edward Coke's hands when he was at the greatest, should now that your Majesty (by your great goodness) hath placed me so near your chair, (being as I hope by God's grace and your instructions

[1] Gibson Papers, vol. viii. f. 71. Copy by Meautys. See also f. 68 which is the draft,—also in his hand.

made a servant according to your heart and hand,) fear him or take umbrage of him in respect of mine own particular.

My third suit is, that if your Majesty be resolved the match shall go on, after you have heard my reasons to the contrary, I may receive therein your particular will and commandments from yourself; that I may conform myself thereunto: imagining with myself (though I will not wager upon women's minds) that I can prevail more with the mother than any other man. For if I should be requested in it from my Lord of Buckingham, the answer of a true friend ought to be, that I had rather go against his mind than against his good: but your Majesty I must obey; and besides I shall conceive that your Majesty out of your great wisdom and depth doth see those things which I see not.

Now therefore, not to hold your Majesty with many words, which do but drown matter: Let me most humbly desire your Majesty to take into your royal consideration, that your state is at this time not only in good quiet and obedience, but in good affection and disposition. Your Majesty's prerogative and authority having risen some just degrees above the horizon more than heretofore, which hath dispersed vapours. Your Judges are in good temper. Your Justices of peace, which is the body of the gentlemen of England, grow to be loving and obsequious, and to be weary of the humour of ruffling. All mutinous spirits grow to be a little poor, and to draw in their horns, and not the less for your Majesty's disauthorising the man I now speak of.

Now then I reasonably doubt that if there be but an opinion of his coming in with the strength of such an alliance, it will give a turn and relapse in men's minds unto the former state of things, hardly to be holpen; to the great weakening of your Majesty's service.

Again, your Majesty may have perceived that as far as it was fit for me in modesty to advise, I was ever for a Parliament; which seemeth to me to be *cardo rerum* or *summa summarum* for the present occasions: but this my advice was ever conditional, that your Majesty should go to a Parliament with a council united and not distracted; and that, your Majesty will give me leave never to expect, if that man come in; not for any difference of mine own, for I can be *omnibus omnia* for your Majesty's service, but because he is by nature insociable, and by habit popular, and too old now to take a new ply, and men begin

already to collect, yea and to conclude, that he that raiseth such a smoke to get in, will set all on fire when he is in.[1]

It may please your Majesty, now I have said I have done; and as I think I have done a duty not unworthy the first year of your last high favour. I most humbly pray your Majesty to pardon me if in any thing I have erred; for my errors shall always be supplied by obedience. And so I conclude with my prayers for the happy preservation of your person and state.

Your Majesty's most humble, bounden,
and most devoted servant,
FR. BACON, C. S.

From Gorhambury, this 25th of July, 1617.[2]

To this letter the King returned a full reply in another which has unluckily been lost,[3] and of which we can only infer the style and substance from Bacon's answer. The reasons, as far as they related to his own service, he appears to have rejected with some disdain. He considered Coke's proceeding in pursuit of his daughter as a lawful and ordinary thing, no way justifying the stir that had been made about it. He found fault with the tone of Bacon's letter to Buckingham, as implying a want of respect for his discretion; and charged him with ingratitude in opposing the match, when he knew how much Buckingham desired it.

Buckingham himself still kept silence, and before the King's answer arrived, Bacon addressed to him the two letters which come next.

[1] In the draft, which is written in Meautys's hand, apparently from dictation, this sentence stood at the first thus: "that your Ma. should never hold a Parliament when your Council was distracted, but when all should run one way within your own walls; Now how likely that is to be (if this man come in again who is unsociable and too old to take a new ply) your Ma. can best discern, but all the world doth collect thus far already that he," &c. Then the word "never" was struck out and the first clause altered to "should hold a Parliament not when your Council was distracted but when all," &c. Finally the whole sentence was crossed out and the passage in the text written in the margin.

[2] This date is taken from Stephens's copy (First collection, p. 210) which is said to be from the original. There is no date in either of the MSS.—either the draft or the copy—except in the docket ("Aug. 2, 1617: a copy of your Lps letter to his M. dissuading from the match of Sir John Villiers"): which, though in Meautys's hand, must be wrong. The King's answer may perhaps have been dated Aug. 2, and being put up with the copy may have caused the mistake.

[3] In Stephens's catalogue there is an entry of "2 original letters written by King James—touching the match of Sir John Villiers: blaming him for the opposition he gave." One of these is among the Gibson Papers at Lambeth, and will be found a little further on. It is the answer to Bacon's *second* letter. The other was no doubt his answer to this; but I have not been able to find it.

To the Earl of Buckingham.[1]

My very good Lord,

I do think long to hear from your Lordship touching my last letter, wherein I gave you my opinion touching your brother's match. As I then shewed my dislike of the matter, so the carriage of it here in the manner I dislike as much. If your Lordship think it is humour or interest in me that leads me, God judge my sincerity. But I must say, that in your many noble favours towards me, they ever moved and flowed from yourself, and not from any of your friends whatsoever; and therefore in requital give me leave that my counsels to you again be referred to your happiness, and not to the desires of any of your friends. I shall ever give you, as I give my master, safe counsel and such as time will approve.

I received yesterday from Mr. Attorney the Queen's bill, which I send your Lordship. The payment is not out of lands, but out of the customs, and so it can be but the rent. Your Lordship remembereth, it is but in a case which I hope shall never be: that is, after his Majesty's death, if she survive. God ever bless and direct you.

Your Lordship's most faithful
and devoted friend and servant,

Fr. Bacon, C. S.

Gorhambury, this 25th of July, 1617.

To the Earl of Buckingham.[2]

My very good Lord,

I have sent inclosed a letter to his Majesty concerning the strangers: in which business I had formerly written to your Lordship a joint letter with my Lord of Canterbury, and my Lord Privy-Seal,[3] and Mr. Secretary Winwood. I am, I thank God, much relieved with my being in the country-air, and the order I keep; so that of late years I have not found my health better. Your Lordship writeth seldomer than you were

[1] Stephens's first collection, p. 213, from the original.
[2] Gibson Papers, vol. viii. f. 67, copy.
[3] Edward, Earl of Worcester.

wont; but when you are once gotten into England, you will be more at leisure. God bless and prosper you.

Your Lordship's true and devoted
friend and servant,
FR. BACON, C. S.

Gorhambury, 29 July, 1617.

It will be seen from the tone of these letters that though Bacon was beginning to feel anxious about the state of Buckingham's mind and temper towards him, he did not as yet think it right to assume that he was offended. At last his answer came and removed all doubt on that head. It shewed him in a humour which, though to us who know him best by his later manifestations it seems natural and characteristic, must have been to Bacon a new and alarming revelation. Nothing like it had appeared in him hitherto. He had invited Bacon's advice on some occasions, and had received it uninvited on others, with all appearance of respect and gratitude; and though it had always been the advice of an affectionate friend, it had never been that of a flatterer. Only good offices on either side had passed between them, nor had any unworthy conditions been exacted or offered; for Weldon's story of the interchange of messages when Bacon received the seals, being utterly irreconcilable with all the recorded evidence, may be set aside without any scruple as a mere invention. The revelation made by this letter was that Buckingham could not bear to have his humour crossed, even by those whom he most respected. It is possible indeed that the offence in this case was given less by Bacon's own letter than by what had been told of him by rivals and enemies; and we have no means of knowing what that was. It is quite possible that, as represented by Winwood or Coke, his conduct would have justified displeasure. But it is not the less certain that in taking such deep offence and acting upon it without asking for an explanation, Buckingham showed a temper which must always have been in danger of betraying him into injustice.

The letter (of which we have only a copy) bears no date. But as I find from Stephens's catalogue that there was once to be seen a letter from Bacon to Buckingham, dated "6 Aug. 1617"; beginning "I have at last received"; and described as "showing his acquiescence in the match;" I conclude that that was the answer to this: and therefore that this was written about the end of July or the beginning of August.

There will be found indeed in Bacon's next letter a passage which

(if correct) implies that it was not received for 5 weeks after the 12th of July, which would bring it to the 16th of August. But that supposition involves so many other difficulties that I prefer to suppose 5 a mistake for 3; in which case no difficulty would occur.

To the Lord Keeper Bacon.[1]

My Lord,

If your man had been addressed only to me, I should have been careful to have procured him a more speedy dispatch: but now you have found another way of address, I am excused; and since you are grown weary of employing me, I can be no otherwise in being employed. In this business of my brother's that you overtrouble yourself with, I understand from London by some of my friends that you have carried yourself with much scorn and neglect both toward myself and friends; which if it prove true I blame not you but myself, who was ever

Your Lordship's assured friend,

G. Buckingham.

The shock which such a letter as this would naturally produce on Bacon must have been much aggravated by that other which he received (as I suppose) shortly after, and which shewed that the King, instead of using his influence to correct this fault in his favourite, was disposed to flatter and inflame it by taking his part and adopting his resentments. Blind partiality for another,—incapacity to see a fault or admit a doubt—which in some relations passes for a virtue—is a cruel weakness when it comes from those who are or should be in authority. Clarendon says it was Buckingham's single misfortune "that he never made a noble and a worthy friendship with a man so near his equal that he would frankly advise him for his honour and true interest against the current, or rather the torrent, of his impetuous passions"; and that "if he had been blessed with one faithful friend who had been qualified with wisdom and integrity," he "would have committed as few faults and done as transcendant worthy actions as any man who shined in such a sphere in that age in Europe." But the truth was that he would not allow any man to *continue* his friend who offered him such advice; and he was quite as ready to quarrel with an equal as with an inferior, the instant that he opposed his inclination. The King was the only man who could have corrected his faults; and the King was blinded by his affection; could not see them; and did in fact aggravate them. The case of Buckingham was simply the case of a spoiled child,—only on a larger scale and a higher stage than it was ever exhibited on before;—a very

[1] Birch MSS. 4260. Copy. (Not I think in a contemporary hand.)

fine nature ruined by the most dangerous of all forms of flattery—the unconscious flattery of immoderate admiration and affection.

The letter which revealed this condition of the King's mind to Bacon has disappeared, as I said. But the tenour of it may be gathered from Bacon's answer; which comes next in order, and together with the four letters which follow may be left to tell its story without further comment. As printed in former editions, this part of the correspondence was very perplexing by reason of the dates, which between false copies and false inferences had fallen into incorrigible disorder. Being now presented in their proper sequence (and we may be certain of the order of succession though not always of the exact date) they will be found sufficiently intelligible.

TO THE KING.[1]

May it please your most excellent Majesty,

I do very humbly thank your Majesty for your letter, and think myself much honoured by it. For though it contain some matter of dislike, in which respect it hath grieved me more than any event which hath fallen out in my life: yet because I know reprehensions from the best masters to the best servants are necessary, and that no chastisement is pleasant for the time, but yet worketh good effects, and for that I find intermixed some passages of trust and grace, and find also in myself inwardly sincerity of intention and conformity of will, howsoever I may have erred, I do not a little comfort myself, resting upon your Majesty's accustomed favour, and most humbly desiring that any one of my particular actions may be expounded by the constant and direct course which your Majesty knoweth I have ever held in your service.

And because it hath pleased your Majesty of your singular grace and favour to write fully and freely unto me, it is duty and decorum in me not to write shortly to your Majesty again, but with some length; not so much by way of defence or answer (which yet I know your Majesty would always graciously hear and admit) as to shew that I have, as I ought, weighed every word of your Majesty's letter.

First, I do acknowledge that this match of Sir John Villiers is *magnum in parvo* in both senses that your Majesty speaketh.

[1] Gibson Papers, vol. viii. f. 69 (*a*). Original draft in Bacon's own hand, docketed also in Bacon's own hand, "Cop. of my [lre to] the K. 2." No date. But written probably about the 12th of August. See note, p. 241.

But your Majesty perceiveth well that I took it to be in a further degree *majus in parvo*, in respect of your service. But since your Majesty biddeth me to confide upon your art of empire, I have done: for as the Scripture saith *to God all things are possible*, so certainly to wise Kings much is possible. But for the second sense that your Majesty speaketh of *magnum in parvo*, in respect of the stir about it, being but a most lawful and ordinary thing, I most humbly pray your Majesty to pardon me if I truly do signify to you that we here take the loud and vocal and as I may call it streperous carriage to have been far more on the other side, which indeed is the inconvenient,[1] rather than the thing itself.

Now for the manner of my affection to my Lord of Buckingham, for whom I would spend my life, and that which is to me more, the cares of my life; I must humbly confess that it was in this a little parent-like (this being no other term than his Lordship hath heretofore vouchsafed to my counsels;) but in truth (and it please your Majesty) without any grain of disesteem for his Lordship's discretion. For I know him to be naturally a wise man, of a sound and staid wit, as I have ever said unto your Majesty, and again I know he hath the best tutor in Europe. But yet I was afraid that the height of his fortune might make him too secure, and (as the proverb is) a looker-on sometimes seeth more than a gamester.

For the particular of a part[2] of a true friend which your Majesty witnesseth that the Earl hath lately performed towards me in palliating some errors of mine; it is no new thing with me to be more and more bound to his Lordship. And I am most humbly to thank (whatsoever it was) both your Majesty and him; knowing well that I may and do commit many errors, and must depend upon your Majesty's gracious construction and favour for them, and shall have need of such a friend near your Majesty. For I am not so ignorant of mine own case but that

[1] So in MS. But the rest of the sentence has been altered, and this word was probably meant to be changed to "inconvenience."

[2] So in the MS., as it stands now. But I think it is not what it was meant to be. Originally the sentence seems to have stood "for the good office part of a trew friend," the words *good office* having a line drawn through them, showing that *part* was meant to be substituted. But over the erasure is written *particular of a*: whether he meant to substitute it for *part of a* and forgot to cross the words out; or whether he wrote the interlineation first, and then substituted *part* for *particular*,—meaning, but forgetting, to strike out the interlineation again—or whether he meant it to stand as I have printed it—must be left to conjecture.

I know I am come in with as strong an envy of some particulars, as with the love of the general.

For my opposition to this business which it seemeth hath been informed to your Majesty, I think it was meant (if it be not a thing merely feigned and without truth or ground) of one of these two things; (for I will dissemble nothing with your Majesty). It is true that in those matters which by your Majesty's commandment and reference came before the table concerning Sir Edward Coke, I was sometimes sharp (it may be too much;) But it was with end to have your Majesty's will performed, or else when methought he was more peremptory than became him in respect of the honour of the table. It is true also, that I disliked the riot or violence whereof we of your Majesty's Council gave your Majesty advertisement by our joint letter, and I disliked it the more because he justified it by law; which was his old song. But in that act of council which was made thereupon, I did not see but all my Lords were as forward as myself, as a thing most necessary for preservation of your peace, which had been so carefully and happily kept in your absence. And all this had a fair end in a reconcilement made by Mr. Attorney, whereby both husband and wife and child should have kept together: which if it had continued, I am persuaded the match had been in better and fairer forwardness than now it is.[1]

Now for the times of things, I beseech your Majesty to understand that which my Lord of Buckingham will witness with me, that I never had any word of letter from his Lordship of the business till I wrate my letter of advice; nor again after my letter of advice till five weeks after, which was now within this sennight.[2] So that although I did in truth presume

[1] "Soon after my last to you . . . order was taken that his daughter should be delivered him and disposed of as he should think fit. Whereupon he sent her to Kingston, to his son's, Sir Robert Coke's, where she yet remains, and her mother having permission to resort unto her (but not to lie in the house) she hired a lodging in the town and kept her such company all day that nobody else could have access. Whereupon her coming is moderated, and divers of her instruments in conveying her away are called in question and committed. Whereupon finding herself forsaken of her friends, who dare not show themselves too far in the business, and seeing she struggles in vain, she begins to come about: and upon a letter to her from my L. of Buckingham, hath returned answer, as I hear, that if this course had been taken with her at the first, things might have proceeded better; and upon some conditions can be content to double the portion her husband hath offered, and so make up the match and give it her blessing." Chamberlain to Carleton 9 Aug. 1617.

[2] 5 weeks after 12 July would be 16 Aug. In which case he must have been writing about the 23rd. It should probably be 3 weeks: see next note.

that the Earl would do nothing without your Majesty's privity, yet I was in some doubt by this his silence of his own mind, that he was not earnest in it, but only was content to embrace the officious offers and endeavours of others.

But to conclude this point, after I had received by a former letter of his Lordship[1] knowledge of his mind, I think Sir Edward Coke himself the last time he was before the Lords mought plainly perceive an alteration in my carriage. And now that your Majesty hath been pleased to open yourself to me, I shall be willing to further the match by any thing that shall be desired of me, or that is in my power.

And whereas your Majesty conceiveth some dregs of spleen in me by the word "Mr. Bacon;"[2] truly it was but to express in thankfulness the comparative of my fortune unto your Majesty the author of it, as the better to shew how little I needed to fear, while I had your favour; for I thank God I was never vindicative nor implacable.

As for my opinion of prejudice to your Majesty's service, (as I touched it before) I have done with it. Your Majesty being satisfied, I do humbly acquiesce and anchor upon your Majesty's judgment, who unto judgment have also power so to mingle the elements as may conserve the fabric.

For the interest which I have in the mother, I do not doubt but it was increased by this, that I in judgment (as I then stood) affected that which she did in passion. But I think the chief obligation was, that I stood so firmly to her in the matter of her assurance, wherein I supposed I did your Majesty service, and mentioned it in a memorial of council-business (as half craving thanks for it). And sure I am now, that and the like hath made Sir Edward Coke a convert, as I did write to your Majesty in my last.

For the collation of the two spirits, I shall easily subscribe to your Majesty's censure; for Solomon were no true man, if in matter of malice the woman should not be the superior.[3]

[1] In Stephens's catalogue there is entered among the letters to the D. of Buckingham one dated 6 Aug. 1617, beginning "I have at last received," and described as "shewing his acquiescence in the match." If this was Bacon's answer to the "former letter" here mentioned, he has miscounted his weeks, or more probably we should read 8 instead of 5. In which case the present letter would be dated about the 12th of August.

[2] See letter of the 25th July, p. 232—"when I was but Mr. Bacon."

[3] The beginning of a sentence which followed in the MS.—"And I like her the worse for some late insinuations as if Sir Jh. Villiers"—has a line drawn through it.

To conclude, I have gone through, with the plainness of truth, the parts of your Majesty's letter, very humbly craving pardon for troubling your Majesty so long; and most humbly praying your Majesty to maintain me in your grace and favour, which is the fruit of my life upon the root of a good conscience. And although time in this business have cast me upon a particular which I confess may have probable shew of passion or interest; yet God is my witness that the thing that most moved me was an anxious and sollicitous care of your Majesty's state and service, out of consideration of the time past and present.

God ever preserve and bless your Majesty, and send you a joyful return after your prosperous journey.[1]

TO THE EARL OF BUCKINGHAM.[2]

My very good Lord,

Since my last to your Lordship I did first send for Mr. Attorney General, and made him know that since I heard from court I was resolved to further the match and the conditions thereof for your brother's advancement the best I could. I did send also to my Lady Hatton and some of her special friends, to let them know I would in any thing declare for the match; which I did to the end that if they had any apprehension of my assistance they might be discouraged in it. I sent also to Sir John Butler, and after by letter to my Lady your mother, to tender my performance of any good office towards the match or the advancement from the mother; This was all I could think of for the present.

I did ever fear that this alliance would go near to leese me your Lordship that I hold so dear, and that was the only respect particular to myself that moved me to be as I was, till I heard from you. But I will rely upon your constancy and nature, and my own deserving, and the firm tie we have in respect of the King's service.

In the mean time I must a little complain to your Lordship, that I do hear my Lady your mother and your brother Sir John do speak of me with some bitterness and neglect. I must bear with the one as a lady and the other as a lover, and with both

[1] In Stephens's catalogue there is this entry: "A copy of a letter about Sir John Villiers' match, imperfect, no date. "I do very humbly."

[2] Gibson Papers, vol. viii. f. 73. Fair copy.

for your Lordship's sake, whom I will make judge of any thing they shall have against me. But I hope, though I be true servant to your Lordship, you will not have me vassal to their passions, especially as long as they [are] governed by Sir Edward Coke and Secretary Winwood; the latter of which I take to be the worst; for Sir Edward Coke, I think, is more modest and discreet. Therefore your Lordship shall do me right, and yet I shall take it for a favour, if you signify to them that you have received satisfaction from me, and would have them use me friendly and in good manner. God keep us from these long journeys and absence, which makes misunderstandings and gives advantage to untruth, and God ever prosper and preserve your Lordship.

Your Lordship's true and devoted friend and servant,

FR. BACON, C. S.

Gorhambury, 23 of Aug. 1617.

TO THE LORD KEEPER.[1]

My Lord,

I have received your Lordship's letter by your man; but having so lately imparted my mind to you in my former letters, I refer your Lordship to those letters, without making a needless repetition, and rest

Your Lordship's at command,

G. BUCKINGHAM.

Ashton, the 12th of Aug. 1617.

THE KING TO THE LORD KEEPER.[2]

James R.

Right trusty and well-beloved Counsellor, we greet you well.

Although our approach doth now begin to be near London, and that there doth not appear any great necessity of answering your last letter since we are so shortly to be at home: Yet we have thought good to make some observations to you upon the same, that you may not err by mistaking our meaning. The first observation we are to make is, That whereas you would invert the second sense wherein we took your *magnum in parvo*, in accounting it to be made *magnum* by their streperous carriage that were for the match, we cannot but show you your mistaking

[1] Gibson Papers, vol. viii. f. 72. Orig. Docketed in Bacon's hand, "Bu. 2."

[2] Gibson Papers, vol. viii. f. 69, b. Original. The signature in the King's hand. Being dated from Nantwich, in the fifteenth year of the reign, it follows that it was written on the 25th or 26th of August, 1617. See Nichols's Progresses, iii. 411–13.

therein. For every wrong must be judged by the first violent and wrongous ground whereupon it proceeds, and was not the thefteous stealing away of the daughter from her own father the first ground whereupon all this great noise hath since proceeded? For the ground of her getting again came upon a lawful and ordinary warrant subscribed by one of our Council for redress of the former violence, and except the father of a child might be proved to be either lunatic or idiot, we never read in any law that either it could be lawful for any creature to steal his child from him or that it was matter of noise and streperous carriage for him to hunt for the recovery of his child again.

Our next observation is, That whereas you protest of your affection to Buckingham, and thereafter confess that it is in some sort *parent-like*, yet after that you have praised his natural parts, we will not say that you throw all down by a direct imputation upon him, but we are sure you do not deny to have had a greater jealousy of his discretion than (so far as we conceive) he ever deserved at your or any man's hands; for you say that you were afraid that the height of his fortune might make him too secure, and so as a looker-on you might sometime see more than a gamester. Now we know not how to interpret this in plain English otherwise than that you were afraid that the height of his fortune might make him misknow himself. And surely if that be your *parent-like affection* toward him he hath no obligation to you for it. And for our part, besides our own proof that we find him furthest from that vice of any courtier that ever we had so near about us, so do we fear that you shall prove the only phœnix in that jealousy of all the kingdom; for we would be very sorry that the world should apprehend that conceit of him; but we cannot conceal that we think it was least your part of any to enter into that jealousy of him, whom of we have heard you oft speak in a contrary style. And as for that error of yours which he lately palliated whereof you seem to pretend ignorance, the time is so short since you commended to him one[1] to be of the Barons of our Exchequer in Ireland, as we cannot think you to be so short of memory as to have forgotten how far you undertook in that business before acquainting us with it, what a long journey you made the poor man undertake, together with the slight recommendation you sent of him, which drave us to those straits that both the poor man had been undone and your credit a little blasted if Buckingham had not by his importunity made us both grant your more than suit (for you had already acted a part of it), and likewise run a hazard of the hindrance of our own service, by preferring a person to so important a place whom you so slightly recommended.

Our third observation is upon the point of your opposition to this business, wherein you either do or at least would seem to mistake us a little. For first, whereas you excuse yourself of the oppositions you made against Sir Edward Coke at the council table both for that and other causes, we never took upon us such a patrociny of Sir Edward Coke, as if he were a

[1] Mr. Lowder. See above, p. 207.

man not to be meddled withal in any case, for whatsoever you did against him by our employment and commandment, we ever allowed it and still do for good service on your part; *de bonis operibus non lapidamus vos;* but whereas you talk of the riot and violence committed by him, we wonder you make no mention of the riot and violence of them that stale away his daughter, which was the first ground of all that noise, as we said before; for a man may be compelled by manifest wrong beyond his patience, and the first breach of that quietness which hath ever been kept since the beginning of our journey was made by them that committed the theft. And for your laying the burden of your opposition upon the whole council, we meddle not with that question; but the opposition which we justly find fault with you, was the refusal to sign a warrant for the father to the recovery of his child, clad with those circumstances (as is reported) of your slight carriage to Buckingham's mother when she repaired to you upon so reasonable an errand. What further opposition you made in that business, we leave it to the due trial in the own time. But whereas you would distinguish of times, pretending ignorance either of our meaning or his when you made your opposition, That would have served for a reasonable excuse not to have furthered such a business till you had been first employed in it, but that can serve for no excuse of crossing anything that so nearly concerned one whom you profess such friendship unto. We will not speak of obligation, for surely we think even in good manners you had reason not to have crossed anything wherein you had heard his name used, till you had heard from him; for if you had willingly given your consent and hand to the recovery of the young gentlewoman, and then written both to us and to him what inconvenience appeared to you to be in such a match, that had been the part indeed of a true servant to us and a true friend to him, but first to make an opposition and then to give advice by way of friendship, is to make the plough to go before the horse.

Thus leaving all the particulars of your carriage in this business to the own proper time, which is even the discoverer of truth, We commend you to God. Given under our signet at Nantwich, in the fifteenth year of our reign of Great Britain, &c.

To the King.[1]

It may please your most ex[t] Ma.,

I dare not presume any more to reply upon your Majesty, but reserve my defence till I attend your Majesty at your happy return; when I hope verily to approve myself not only a true servant to your Majesty, but a true friend to my Lord of Buckingham. And for the times also, I hope to give your Majesty a good account, though distance of place may obscure them.

[1] Lansd. MSS. vol. xc. f. 42. Either the original or a fair copy in Bacon's own hand.

But there is one part of your Majesty's letter that I would be sorry to take time to answer; which is, that your Majesty conceiveth that, whereas I wrate That the height of my Lord's fortune mought make him secure, I meant that he was turned proud or unknowing of himself. Surely the opinion which I have ever had of my Lord (whereof your Majesty is best witness) is far from that. But my meaning was plain and simple. That his Lordship mought through his great fortune be the less apt to cast and foresee the unfaithfulness of friends and malignity of enviers and accidents of times: which is a judgment (as your Majesty knoweth better than I) that the best authors make of the best and best tempered spirits; *ut sunt res humanæ;* insomuch as Guicciardine maketh the same judgment (not of a particular person) but of the wisest state of Europe, the senate of Venice, at one time; when he saith, their prosperity had made them secure and underweighers of perils. Therefore I beseech your Majesty to deliver me in this from any the least imputation upon my dear and noble Lord and friend.

And so expecting that that sun which when it went from us left us cold weather, and now it is returned towards us hath brought with it a blessed harvest, will when it cometh to us disperse all mists and mistakings, I ever rest

Your M's most humble
bounden and faithful
servant,
FR. BACON, C. S.

Gorhambury, this
31 of Aug.[1] 1617.

4.

The King was by this time as far as Coventry on his way back from Scotland, and both Coke and Yelverton had gone to meet him. Coke had arrived first and been well received,[2] and on the 3rd of September Yelverton sent Bacon a full and confidential report of the state of things, every particular of which was of so much im-

[1] Dated in the *Cabala, from which* Stephens took it, "July 31"; an error due, I think, to the tail of the *y* in Gorhambury striking through the *u* in *Aug.* and making it look very like *July*. Mr. Gardiner has anticipated this correction by conjecture, founded on the impossibility of the other date.

[2] Lake to Winwood, 28 Aug. S. P. vol. xciii. no. 69.

portance to him in the way of warning, that in order to understand his position it will be worth while to read the whole.

My most worthy and honourable Lord,[1]

I dare not think my journey lost, because I have with much joy seen the face of my master, the King, though more clouded towards me than I looked for.

Sir Edward Coke hath not forborne by any engine to heave both at your Honour and at myself; and he works by the weightiest instrument, the Earl of Buckingham, who as I see sets him as close to him as his shirt, the Earl speaking in Sir Edward's phrase, and as it were menacing in his spirit.

My Lord, I emboldened myself to assay the temper of my Lord of Buckingham to myself, and found it very fervent, misled by misinformation which yet I find he embraced as truth, and did nobly and plainly tell me he would not secretly bite, but whosoever had had any interest or tasted of the opposition to his brother's marriage he would as openly oppose them to their faces, and they should discern what favour he had by the power he would use.

In the passage between him and me, I stood with much confidence upon these grounds:

First, that neither your Lordship nor myself had any way opposed but many ways had furthered the fair passage to the marriage.

Secondly, that we only wished the manner of Sir Edward's proceedings to have been more temperate, and more nearly resembling the Earl's sweet disposition.

Thirdly, that the chiefest check in the business was Sir Edward himself, who listened to no advice, who was so transported with passion, as he purposely declined the even way which your Lordship and the rest of the Lords left both him his lady and his daughter in.

Fourthly, I was bold to stand upon my ground, and so I said I knew your Lordship would, that these were slanders which were brought him of us both; and that it stood not with his honour to give credit to them.

After I had passed these straits with the Earl, leaving him leaning still to the first relation of envious and odious adversaries, I adventured to approach his Majesty, who graciously gave me his hand to kiss, but intermixed withal that I deserved not that favour, if three or four things were true which he had to object against me. I was bold to crave his princely justice, first to hear, then to judge, which he graciously granted, and said he wished I could clear myself. I answered, I would not appeal to his mercy in any of the points, but would endure the severest censure if any of them were true; whereupon he said he would reserve his judgment till he heard me, which could not be then, his other occupations pressed him so much. All this was in the hearing of the Earl; and I protest I think the confidence in my innocency made me depart half

[1] Gibson Papers, vol. viii. f. 74. Orig. own hand.

justified, for I likewise kissed his Majesty's hand at his departure, and though out of his grace he commanded my attendance to Warwick, yet upon my suit he easily inclined to give me the choice to wait on him at Windsor or at London.

Now, my Lord, give me leave out of all my affections that shall ever serve you, to intimate touching yourself:

1st. That every courtier is acquainted that the Earl professeth openly against you as forgetful of his kindness, and unfaithful to him in your love and in your actions.

2nd. That he returneth the shame upon himself, in not listening to counsel that dissuaded his affection from you, and not to mount you so high, not forbearing in open speech (as divers have told me, and this bearer, your gentleman, hath heard also) to tax you, as if it were an inveterate custom with you, to be unfaithful to him as you were to the Earls of Essex[1] and Somerset.

3rd. That it is too common in every man's mouth in court, that your greatness shall be abated, and as your tongue hath been as a razor to some, so shall theirs be to you.

4th. That there is laid up for you, to make your burden the more grievous, many petitions to his Majesty against you.

My Lord, Sir Edward Coke, as if he were already upon his wings, triumphs exceedingly; hath much private conference with his Majesty; and in public doth offer himself and thrust upon the King with as great boldness of speech as heretofore.

It is thought and much feared that at Woodstock he will again be recalled to the council table; for neither are the Earl's eyes nor his thoughts ever off him.

Sir Edward Coke with much audacity affirmeth his daughter to be most deeply in love with Sir John Villiers, that the contract pretended with the Earl is counterfeit, and the letter also, that is pretended to come from the Earl.

My noble Lord, if I were worthy being the meanest of all to interpose my weakness, I would humbly desire,

1. That your Lordship fail not to be with his Majesty at Woodstock; The sight of you will fright some.

2. That you single not yourself from the other Lords, but justify all the proceedings as all your joint acts; and I little fear but you pass conqueror.

3. That you retort the clamour and noise in this business upon Sir Edward Coke, by the violence of his carriage.

4. That you seem not dismayed, but open yourself bravely and confidently, wherein you can excell all subjects; by which means I know you shall amaze some and daunt others.

I have abused your Lordship's patience long, but my duty and affec-

[1] It is a singular thing that this is the only allusion to the old charge of ingratitude to Essex—made by a contemporary, during Bacon's life, and after the publication of his "Apology"—that I have yet met with.

tion towards your Lordship shall have no end; but I will still wish your Honour greater, and rest myself

Your Honour's servant,

HENRY YELVERTON.

Daventry, Sept. 3, 1617.

I beseech your Lordship burn this letter.

A day or two later, Bacon got some further light as to the state of the weather by the following letter from Buckingham himself conveying the King's answer to his last.

It would appear from the first sentence that some of his own letters to Buckingham at this crisis have been lost; for there are none remaining which answer the description.

My Lord,[1]

I have received so many letters lately from your Lordship that I cannot answer them severally: but the ground of them all being only this, that your Lordship feareth I am so incensed against you that I will hearken to every information that is made unto me; this one letter may well make answer unto them all. As his Majesty is not apt to give ear to any idle report against men of your place; so for myself I will answer that it is far from my disposition to take any advantage in that kind; and for your Lordship's unkind dealing with me in this matter of my brother's, time will try all. His Majesty hath given me commandment to make this answer in his name to your letter to him, that he needeth not to make any other answer to you than that which in that letter you make to yourself, That you know his Majesty to be so judicious that whatsoever he heareth, he will keep one ear open to you; which being indeed his own princely disposition, you may be assured of his gracious favour in that kind. I will not trouble your Lordship with any longer discourse at this time, being to meet you so shortly,[2] where will be better trial of all that hath passed than can be made by letters. So I rest

Your Lordship's at command,

G. BUCKINGHAM.

Warwick, Sept. 5.

Such was the disposition in which the King and Buckingham were prepared to meet Bacon. But he had the advantage of a case in which there was really no just ground of complaint whatever; unless it were that he had refused to acknowledge the right of a father to break into other men's houses in order to rescue his

[1] Gibson Papers, vol. viii. f. 230. Original. Docketed in Bacon's hand, "Buc. ult. 5 Sep."

[2] The words "at Woodstock" followed: but a line is drawn through them.

daughter from her mother;[1] for he had not interfered otherwise, except by offering advice with reasons, and those he had not pressed after they had been heard and rejected. Of the particulars of the meeting we have no account from any authority that can be trusted; for Weldon does not in my opinion deserve to be so much as quoted. But from the correspondence which has been preserved I gather that presently after the King's return to London (which was on the 15th of September) Bacon desired to speak with him about a matter concerning his own safety, suggested by a case then before the Council: and that on the 21st or 22nd of September he had an interview with Buckingham, at which he put into his hands a note of what he wanted to say to the King, and at the same time entered into explanations with regard to himself. The result will appear in the two letters which follow.

FOR THE KING.[2]

That which for the present I would have spoken with his Majesty about, was a matter wherein time may be precious, being upon the tenderest point of all others. For though the particular occasion may be despised, (and yet nothing ought to be despised in this kind,) yet the counsel thereupon I conceive to be most sound and necessary to avoid future perils.

There is an examination taken within these few days by Mr. Attorney concerning one Baynton, or Baynam, (for his name is not yet certain,) attested by two witnesses, that the said Baynton, without any apparent shew of being overcome with drink, (otherwise than so as mought make him less wary to keep secrets,) said that he had been lately with the King to petition him for reward of service, which was denied him, whereupon it was twice in his mind to have killed his Majesty. God ever bless him.[3]

[1] That this was the real case we know upon Coke's own authority. In his letter to Buckingham, 15 July, 1617, complaining of the order to proceed against him in the Star Chamber, he justifies his own proceeding upon two grounds. First, he feared that the King might suspect him of complicity in the conveying away of his daughter; and secondly, Sir Edmond Withipole refused to give her up to him when he demanded her. See Lord Campbell's Chief Justices, I. 298. He would not have held himself justified in breaking the door if he could have got her by a demand; but he did hold himself justified if he could not get her otherwise. The Star Chamber proceeding was to have tried that point of law.

[2] Gibson Papers, vol. viii. f. 75. Copy or fair draft in Bacon's hand. The fly leaf is gone. But there is written on the back (in the later hand in which endorsements are usually inserted when there is no fly leaf), "September 21. To revive the Commission of Suits. For the King."

[3] This sentence is written between the lines—evidently inserted on reading the paper over.

The man is not yet apprehended, and said by some to be mad or half mad; which in my opinion is not the less dangerous; for such men commonly do most mischief, and the manner of the speaking imported no distraction.

But the counsel I would out of my care ground hereupon is, That his Majesty would revive the commission for suits, which hath been now for these three years or more ill laid down. For it may prevent any the like wicked cogitation which the devil may put into the mind of a roarer or swaggerer upon a denial: and besides it will free his Majesty from much importunity, and save his coffers also. For I am sure when I was a commissioner, in three whole years space there passed scarce ten suits that were allowed; and I doubt now, upon his Majesty's coming home from this journey, he will be much troubled with petitions and suits; which maketh me think this remedy more seasonable. It is not meant that suits generally should pass that way; but only such suits as his Majesty would be rid on.

THE EARL OF BUCKINGHAM TO THE LORD KEEPER.[1]

My Lord,

I have made his Majesty acquainted with your note concerning that wicked fellow's speeches, which his Majesty contemneth, as is usual to his great spirit in these cases; but notwithstanding, his Majesty is pleased that it shall be exactly tried, whether this foul-mouthed fellow was taken either with drunkenness or madness when he spake it. And as for your Lordship's advice for setting up again the commissioners for suits, his Majesty saith there will be time enough for thinking upon that at his coming to Hampton Court.

But his Majesty's direction in answer of your letter hath given me occasion to join hereunto a discovery unto you of mine inward thoughts, proceeding upon the discourse you had with me this day. For I do freely confess that your offer of submission unto me, and in writing (if so I would have it), battered so the unkindness that I had conceived in my heart for your behaviour towards me in my absence, as out of the sparks of my old affection towards you I went to sound his Majesty's intention how he means to behave himself towards you, specially in any public meeting; where I found on the one part his Majesty so little satisfied with your late answer unto him, which he counted (for I protest I use his own terms) confused and childish, and his rigorous resolution on the other part so fixed that he would put some public exemplary mark upon you, as I pro-

[1] Gibson Papers, vol. viii. f. 265. Copy in Bacon's hand. No fly leaf: indorsed, as usual in that case, "A letter of reconciliation from my Lord Buckingham after his Majesty's return from Scotland."

test the sight of his deep-conceived indignation quenched my passion, making me upon the instant change from the person of a party into a peace-maker; so as I was forced upon my knees to beg of his Majesty that he would put no public act of disgrace upon you. And as I dare say no other person would have been patiently heard in this suit by his Majesty but myself, so did I (though not without difficulty) obtain thus much, That he would not so far disable you from the merit of your future service, as to put any particular mark of disgrace upon your person. Only thus far his Majesty protesteth, That upon the conscience of his office he cannot omit (though laying aside all passion) to give a kingly reprimand at his first sitting in council to so many of his councillors as were then here behind and were actors in this business, for their ill behaviour in it. Some of the particular errors committed in this business he will name, but without accusing any particular persons by name.

Thus your Lordship seeth the fruits of my natural inclination; and I protest all this time past it was no small grief unto me to hear the mouth of so many upon this occasion open to load you with innumerable malicious and detracting speeches, as if no music were more pleasing to my ears than to rail of you: which made me rather regret the ill nature of mankind, that like dogs love to set upon him that they see once snatched at. And, to conclude, my Lord, you have hereby a fair occasion so to make good hereafter your reputation by your sincere service to his Majesty, as also by your firm and constant kindness to your friends, as I may (your Lordship's old friend) participate of the comfort and honour that will thereby come to you. Thus I rest at last

Your Lordship's faithful friend and servant.

G. B.

The force of our old kindness hath made me set down this in writing unto you, which some that have deserved ill of me in this action would be glad to obtain by word of mouth, though they be far enough from it for ought I yet see. But I beseech your Lordship to reserve this secretly to yourself only, till our meeting at Hampton Court, lest his Majesty should be highly offended for a cause that I know.

To the Earl of Buckingham.[1]

My ever best Lord, now better than yourself,

Your Lordship's pen or rather pencil hath pourtrayed towards me such magnanimity and nobleness and true kindness, as methinketh I see the image of some ancient virtue, and not any thing of these times. It is the line of my life, and not the lines of my letter, that must express my thankfulness: wherein if I fail, then God fail me, and make me as miserable as I think myself at this time happy by this reviver, through his Majesty's

[1] Gibson Papers, vol. viii. f. 76. Copy by Meautys.

singular clemency, and your incomparable love and favour. God preserve you, prosper you, and reward you for your kindness to

Your raised and infinitely obliged friend and servant,

FR. BACON, C. S.

Sept. 22, 1617.

To pretend reconciliation when he was not reconciled was never the vice of Buckingham: and considering the depth of the offence which he had conceived against Bacon for his conduct real or supposed, and the violence of the enmity which commonly succeeded in him to a renounced friendship, we may believe that on this occasion he had really achieved a considerable victory over himself, and that he deserved more of the credit which Bacon gave him than might otherwise seem to be his due, seeing that he did but give way where he had been grossly in the wrong. But when a man is disposed to do what is right, it is well to make it as agreeable to him as possible; and Bacon was probably well advised in magnifying the favour, and consenting to receive as generosity what was in fact nothing more than justice.

Buckingham being thus pacified, the King, whose resentments though lively were never long-lived, was easily persuaded to receive Bacon back into favour, and the old relations were presently re-established. But when friends have once quarrelled, they never can be to each other *quite* what they were before. During the quarrel they see each other with different eyes and learn to construe matters in less favourable senses. Thus they come to know many things which they did not know before, and which no reconciliation can make them forget. All this had happened within six months of the time when Bacon stood highest in the favour of both; and he had done nothing to deserve it. It was impossible for him henceforward to forget how precarious a possession their friendship and favour was, and how little he could depend for its continuance upon either diligence, or ability, or fidelity, or even upon the most anxious and affectionate solicitude for *their* good. With this difference however, things returned into their old course: and the memorial which follows of business to be done at the King's first meeting with his Council shows no traces of the storm which had so nearly thrown the whole business of the Council into other hands.[1] It bears no date, but must have been written a little before the 27th of September, if the letter from the Council to the King upon the state of his

[1] In Stephens's catalogue I find among the letters from Toby Matthew to Bacon the following entry "28 Sep. 1617.—In despight of my hand.—Congratulating his deliverance from a storm."

revenue (S. P. Dom. vol. xciii. no. 99) is rightly referred by the Calendarer to that date.

A MEMORIAL FOR YOUR MAJESTY.[1]

Although I doubt not but your Majesty's own memory and care of your affairs will put you in mind of all things convenient against you shall meet with your Council, yet some particulars I thought it not unfit to represent unto your Majesty; because they passed the labour of your Council.

I. Some time before your departure, here was delivered unto you by the officers of your Exchequer a computation of your revenue and expence, wherein was expressed that your revenue ordinary was not only equal to your expence, but did somewhat exceed it, though not much.

In this point, because the half year will now be expired at Michaelmas, it shall be fit that your Majesty call to account whether that equality hath held for this half year; and if not, what the causes have been, and whether the course prescribed hath been kept, that the ordinary expence hath been borne out of the ordinary revenue and the extraordinary only out of such money as hath come in by extraordinary means, or else your state cannot clearly appear.

II. To maintain this equality, and to cause your Majesty's state to subsist in some reasonable manner till further supply might be had, it was found to be necessary that 200,000*l.* of your Majesty's most pregnant and pressing debts should be discharged; and after consideration of the means how to do that, two ways were resolved on. One that 100,000*l.* should be discharged to the farmers of your customs by 25,000*l.* yearly, they having for their security power to defalke so much of their rent in their own hands: but because if that should be defalked, then your ordinary should want of so much, it was agreed that the farmers should be paid the 25,000*l.* yearly in the sale of woods.

In this point it is fit for your Majesty to be informed what hath been done, and whether order hath been taken with the farmers for it, and what debts were assigned to them so

[1] Stephens's second collection, p. 58. From the original.

to discharge: for of the particulars of that course I never heard yet.

And because it is apparent that the woodfalls this year do not amount to half that sum of 25,000*l.* your Majesty is to give charge that consideration be had how the same shall be supplied by some other extraordinary for the present year, or else here will follow a fracture of the whole assignments.

Item, Your Majesty may please to call for information how that money raised upon the woods is employed, so much as is already received, and to be wary that no part hereof be suffered to go for extraordinaries, but to be employed only for the use for which it is assigned, or else a greater rupture will follow in your assignments.

Item, A special consideration is to be had what course shall be taken for the rest of the years with the wood sales, for supply of this 25,000*l.* yearly.

III. The other hundred thousand pound was agreed to be borrowed, and an allotment made by my Lords of the Council at the table, how the same should be imployed, and for what special services, whereof I deliver to your Majesty herewith a copy.

In which point it may please your Majesty to cause yourself to be informed how that allotment hath been observed, and because it is likely that a good part of it hath gone towards the charges of this your journey to Scotland (at least so it is paid), your Majesty is to call for the particulars of that charge, that you may see how much of that hundred thousand it taketh up.

And then consideration is to be had how it may be supplied with some extraordinary comings in, as namely the moneys to come from the Merchant Adventurers, that the same be allotted to none other use, but to perform this allotment, that so the foundation laid may be maintained, or else all will be to seek; and if there be any other extraordinary means to come to your Majesty, that they may be reserved to that use.

And because care must be had to keep your credit in London, for this money borrowed, your Majesty may please to call for information what is doue in the matter of the forests, and what sum, and in what reasonable time, is like to be made thereof.

The extraordinaries which it is like will be alledged for this year:

Your Majesty's journey into Scotland.
The Lord Hay's employment into France.
The Lord Roos into Spain.
The Baron de Tour extraordinary from France.
Sir John Bennet to the Archduke.
The enlarging of your park at Theobalds.
Sir John Digby's sending into Spain.

Of all which when your Majesty hath seen an estimate what they amount unto, and what money hath been already delivered towards them, which I fear will fall to be out of the moneys borrowed at London; then is it to be considered what extraordinaries are any ways to come in, which may supply these extraordinaries laid out, and be employed for the uses for which the moneys borrowed were intended.

The issue of all this turmoil may be thus summed up.

Coke got what he wanted, though he had been obliged to pay higher for it than he liked: On the 28th of September he was restored to the Council table. The Villierses also got what they wanted: On the 29th Sir John married a young lady with a large portion. But the game had gone altogether against Lady Hatton. She had not only failed to bring her husband into the Star Chamber, and to save her daughter from a marriage which she (Lady H.) disliked; but she was threatened with prosecution herself. For the precontract with the Earl of Oxford proved to be a fiction, and the circumstances of the abduction brought her within danger of the Court. "I have full cause" said Coke, writing to Buckingham on the 15th of July "to bring all the confederates into the Star Chamber, for conveying away my child out of my house." And before he had been a fortnight at the Council Board again, steps were taken for this object. Lady Hatton, says Chamberlain writing on the 11th of October, "lies still at Sir W. Craven's, crazy in body and sick in mind. There is a commission to the Lord Keeper, the Lord Archbishop, Secretary Winwood, and I know not who else, to examine her of conspiracy, disobedience, and many other misdemeanors, and to proceed against her according as they shall find cause, but her sickness stands her in some stead for the time: and if she come again to herself it may be that in space there will grow grace. But sure she is in a wrong way now, and so animated towards her husband that it is verily thought she would not care to ruin herself to overthrow him." It seems however that she had not formally

refused her consent to the marriage,[1] and she had one great card still in her hand. She might be sentenced and fined in the Star Chamber, but she could not be compelled to settle her fortune on the bride. This was to be obtained by another course of treatment: and by the end of October we find that she was again in favour. "For the King coming to town yesterday"—so Chamberlain writes on the 31st of October—"it was told me that the Earl of Buckingham meant to go himself and fetch her as it were in pomp from Sir William Craven's (where she hath been so long committed) and bring her to the King, who upon a letter of her submission is graciously affected towards her. But another cause is that seeing her yielding and as it were won to give allowance to the late marriage, he will give her all the contentment and countenance he can in hope of the great portion she may bestow upon her. For there is little or nothing more to be looked for from Sir Edward Coke, who hath redeemed the land he had allotted his daughter for 20,000*l.* so that they have already had 30,000*l.* of him paid down."[2]

The marriage proved in the end unfortunate; and that in a tragical degree. But I cannot think that the issue can be justly laid to the charge of those who brought it about. I find no reason for supposing that the young lady showed any aversion to her husband or that her fancy was set upon any body else. To please her mother, she was ready to acknowledge a precontract with the Earl of Oxford which was not a fact: to please her father, she was ready to beg her mother's consent to her marriage with Sir John Villiers: while to please herself, it was rumoured at the time, she would have preferred Sir Rob. Howard;[3] with whom it is true that she did afterwards elope. But I do not imagine that any one, looking forward, had a right to apprehend any worse consequences than such as commonly follow from what is commonly thought a "good" marriage,—a marriage of wealth to greatness.

[1] "It is said that the mother's consent was obtained; the lady protesting that howsoever she liked Sir John better than any other whatsoever, yet she desired to keep a solemn promise made to her mother, not to marry any man without her consent." Adam Newton to Sir Thomas Puckering: 30 (misdated 28) September, 1617. Court and Times of James I. vol. ii. p. 34.

[2] S. P. vol. xciii. no. 158.

[3] "If it be as is said, both mother and daughter are far enough from it, and have another aim at a younger son of the Lord Treasurer's." Chamberlain to Carleton, 19 July, 1617.

CHAPTER VI.

A.D. 1617–18. OCTOBER–MARCH. ÆTAT. 57.

1.

THE reconciliation was followed by a long course of calm weather, in which Bacon's services were graciously accepted both by Buckingham and the King, and no misunderstandings arose. That this was purchased by a promise or a practice of unconditional compliance with all Buckingham's humours, is a thing obvious to conjecture and easy to assert; but I find nothing in the tone of the correspondence on either side which indicates any such alteration, nor would it have been like Buckingham, if I understand his character rightly, to make up a quarrel upon such a condition. If he had continued to believe that Bacon had done him wrong he would have continued openly to resent it. It was willing co-operation, not servile compliance, that he expected from his friends, and I think he was too proud to accept service which he had reason to believe reluctant or insincere. But Bacon, as soon as he had an opportunity of *speaking* to him, convinced him—a thing the more easily done because it was certainly true—that he had *meant* all along to serve and not to cross him: and it is quite in accordance with all we know otherwise of Buckingham's character that, being once convinced of that, he should treat as cancelled an offence which had not been committed.

The only thing, so far as I know, which may seem to countenance the suspicion that some unworthy compact of compliance was the condition of Bacon's restoration to favour, is the fact that among the very many letters which Buckingham had to write to him on matters of public business—for it was through the Favourite that the King commonly corresponded with the Lord Keeper—there are some written on his own account in favour of parties having suits in Chancery; and that such letters came more frequently after the re-

conciliation than before. Their greater frequency after the reconciliation is easily accounted for; and indeed, unless they had been discontinued altogether, it could hardly have been otherwise. After the reconciliation was after the return of the Court to England. During the few months that Bacon had held the seals when the misunderstanding arose, Buckingham being away in Scotland had been comparatively free from the importunity of suitors. When he was in London, or at any of the ordinary resorts of the Court, everybody who had a suit in Chancery and access in person or through a friend to his ear would be urgent for a letter of recommendation; and Buckingham, who though touchy and resentful was affable and good-natured,—

> "Lofty and sour to those who loved him not,
> But to those men that sought him sweet as summer,"—

would naturally (being also very young and inexperienced) take the course which gave least trouble to himself and most satisfaction to the suitor: he would direct his secretary to draw up a letter for his signature in the usual form. The usual form was a recommendation of the cause to the Lord Keeper so far as might stand with justice and equity, or words to that effect. But the words are of no importance, as they might be meant to pass for words and nothing more. The material question is, whether those letters were in fact meant by Buckingham or allowed by Bacon to interfere in any way with the course of justice. I do not think that any reason can be given for thinking that they were. Lord Campbell indeed in the earlier editions of his life of Bacon supplied a circumstance which, if correct, might have been thought to tend that way. He discovered a change in the character of these letters. "*At first*," he said, Buckingham "used the qualification 'so far as may stand with justice and equity' . . . but he *afterwards* omitted these decent forms and pretty plainly intimated that he was to dictate the decree." Being reminded however that the dates did not bear out this observation;[1] that the change was really in the opposite direction, the omission of the qualifying clause being *less* frequent "afterwards" than "at

[1] "We find that of thirty letters addressed by Buckingham to Bacon in favour of parties who had suits before him,—and we can find no more,—there are—

	Without such clause.	*With* such clause.
In 1617	3	4
1618	6	8
1619	1	4
1620	0	3
1621	1	0

"We find also that of the six cases in 1618 in which the qualifying clause is omitted, one contains *thanks* for the pains which Bacon had taken in hearing a cause which had gone *against* the party in whose favour Buckingham writes;

first;" for that among Buckingham's letters of this nature those which contained *no* qualifying clause were in the first year as three to four; in the second, as three to eight; while in the third, fourth, and fifth they disappeared entirely;[1] he was induced at last to give up the circumstance of time, which he had introduced by way of support to the imputation which followed; leaving the imputation to stand by itself unsupported.[2]

That these letters passed without remonstrance—that is, that no record of any remonstrance has come down to us (and it must be remembered that we should never have heard of the letters themselves if Bacon had put them in the fire)—does not appear to me to justify the inference which Lord Campbell seems to have drawn from the fact. Assuming, in defiance of all probability, that they were "paid for" by the parties, he concludes that in the absence of any record of remonstrance "Buckingham *and those who paid for them* must have believed that they were effectual." If the real object of these letters was, as I suppose it was, not to influence Bacon's judgment but to satisfy the friends who asked for them, and if Bacon understood them so, remonstrance was not called for on the ground of any real interference with justice; and any remonstrance that he might think it expedient to make on the ground that the practice was a bad one, could be much better and more effectually made in personal conference than by letter; in which case no record would remain. For my own part therefore, before I believe either that Buckingham desired or that Bacon allowed him to "dictate decrees," I must have some better reason for suspecting it. But the reader shall judge for himself. It is not pretended that there is any evidence beyond what is supplied by the letters themselves; and

another asks merely that the party may have a fortnight's freedom from restraint (under security to give himself up at the end of the time) that he may follow his business in person; and a third asks only for 'a full arbitration and a final end:' —that the one such letter in 1619 asks only that Bacon will *himself* examine into the case of a *foreigner*, who was perplexed by the shifting of his cause from court to court:—and that the one in 1621 asks only for "a full and fair hearing and speedy despatch."

"As for any *dictation of decrees*, we find no hint of such a thing in any of them."—*Examiner*, 25 *Dec.* 1852.

[1] Companion to the Railway Edition of Lord Campbell's Life of Bacon, by a Railway Reader, (1853) p. 73.

[2] In its latest and final shape, the whole passage stands thus. "Few causes of any importance were about to come to a hearing in the Court of Chancery, in which he did not write to the Judge in favour of either of the parties. He *at times* used the transparent qualification 'so far as may stand with justice and equity,' or 'so far as your Lordship may see him grounded upon equity and reason,'—and in a charity suit he would pledge himself that the defendants charged with breach of trust, 'desired only the honour of their ancestor's gift;' but he *often entirely* omitted these decent forms, and pretty plainly hinted that he was to dictate the decree." Lives of the Lord Chancellors, 4th edition. 1857. Vol. iii. p. 91.

though letters addressed to Bacon, where they throw no light upon his life or correspondence, do not properly belong to this collection, yet as these will not take up much room, and as the imputation is a very grave one—perhaps the gravest of all that have been made against his judicial character—I have thought it better to print them all in their places.

2.

The correspondence which follows relates to a variety of subjects, but being read in order will for the most part be found sufficiently intelligible.

To the Lord Keeper.[1]

My ho^ble Lord,

When his Ma^ty passed through Lancashire he looked upon Sir Richard Haughton's allum works; and by that report which was then made unto him, he judged it fit to take them into his own hands. But because his Ma^ty would do nothing but upon good ground, he hath commanded me to signify his pleasure unto your Lo^p to direct a commission to such gentlemen in the country as you shall think fit to take a view of them, and upon a due examination of the particulars to make an estimate of the value and clear profit of them, that thereupon he may take such further resolution as his service shall require. The haste that is made of this business is upon pretence to do Sir Gilbert Haughton good, for whom, lest I should mistake anything in the letter, it may please your Lo^p to take fuller information of the business. And so I rest

Yo^r Lo^p servant,

G. Buckingham.

Royston, the 4 of October, 1617.

To the Lord Keeper.[2]

My ho^ble Lord,

I have acquainted his Ma^ty with your Lo^ps letter, and the draught of the ordinance, which he will take time to peruse, and return it back again to you with full signification of his pleasure therein. His Ma^ty commanded me to give your Lo^p thanks for your care of his service and estate. The other things which you mention in your letter will not be expected till you be ready to send them. And so with mine own thanks

[1] Lansd. MSS. 93. f. 189. Orig. Secretary's hand. Docketed in Meautys's hand, "4 Oct. 1617. The Earl of Buckingham to your Lp. touching Sir Rich. Houghton's Allom Mines."

[2] Lansd. MSS. 93. f. 191. Orig. Docketed by Meautys, "Octob. 9th, 1617. The Earl of Buck^m to yo^r Lo^p signifying his Ma. good acceptance of yo^r Lo^ps care of his service and estate."

for your favourable and quick despatch of Sir Gilbert Haughton's business, I rest

Yor Lop's most assured
friend and servant,
G. BUCKINGHAM.

Royston the 8 of
October, 1617.

The ordinance here mentioned was for the constitution of Reporters of law cases,—the appointment of "some grave and sound lawyers, with some honourable stipend, to be reporters for the time to come,"—which Bacon had recommended in his "Proposition touching the compiling and amendment of the Laws of England," when he was Attorney General, and concerning which he afterwards noted in the margin of his manuscript, that he "obtained it of the King after he was Chancellor." See above, p. 69, and below, p. 264.

The case of *commendam* mentioned in the next letter was probably the same which was the subject of the act of Council in June 1616. See chapter ix. of the last volume. It was not expected at that time that judgment could be given in it before Easter-term 1617, and I suppose unforeseen causes of delay carried it over the long vacation.

The "cause of the Egertons" was a disputed will; a capricious testator having left his property away from his own children to a spendthrift cousin. "The will had recently been declared valid, but the two parties, unwilling to prosecute the matter further in a common law court, begged the King to refer it to Bacon's arbitration."[1]

TO THE EARL OF BUCKINGHAM.[2]

My very good Lord,

It may please your Lordship to let his Majesty understand, That I have spoken with all the Judges, signifying to them his Majesty's pleasure touching the commendams. They all *una voce* did re-affirm, that his Majesty's powers, neither the power of the Crown, nor the practised power by the Archbishop, as well in the *commendam ad recipiendum*, as the *commendam ad retinendum*, are intended to be touched; but that the judgment is built upon the particular defects and informalities of this

[1] Gardiner: P. Charles and the Spanish marriage. Vol. i. p. 431.
[2] Gibson Papers, vol. viii. f. 77. Copy by Meautys. No fly leaf. Indorsed in the usual hand, "To the Duke of Buck. concerning Commendams."

commendam now before them. They received with much comfort that his Majesty took so well at their hands the former stay, and were very well content and desirous that when judgment is given there be a faithful report made of the reason thereof.

The accounts of the summer Circuits, as well as that of the Lent Circuit, shall be ready against his Majesty's coming. They will also be ready with some account of their labours concerning Sir Edward Coke's *Reports*, wherein I told them his Majesty's meaning was not to disgrace the person but to rectify the work, as having in his royal contemplation rather posterity than the present.

The two points touching the peace of the middle shires, I have put to a consult with some selected Judges.

The cause of the Egertons I have put off and shall presently enter into the treaty of accord according to his Majesty's commandment, which is well tasted abroad in respect of his compassion towards those ancient families.

God ever preserve and prosper your Lordship, according to the faithful and fervent wishes of

Your Lordship's true friend,
and devoted servant,
Fr. Bacon.

York house, October
11, 1617.

To the Earl of Buckingham.[1]

My very good Lord,

I have reformed the ordinance according to his Majesty's corrections, which were very material. And for the first of *phrasis non placet*, I understand his Majesty, nay further, I understand myself the better for it. I send your Lordship therefore six privy seals, for every court will look to have their several warrant. I send also two bills for letters patents to the two reporters. And for the persons I send also four names, with my commendations of those two for which I will answer

[1] Gibson Papers, vol. viii. f. 78. Copy by Meautys. No fly leaf. Indorsed in the usual hand, "To Lo. Buck^m upon sending the patents for establishing the Reporters."

upon my knowledge. The names must be filled in the blanks, and so they are to be returned.

For the business of the Court of Wards,[1] your Lordship's letter found me in the care of it. Therefore, according to his Majesty's commandment by you signified, I have sent a letter for his Majesty's signature. And the directions themselves are also to be signed. These are not to be returned to me (lest the secret come out) but to be sent to my Lord of Wallingford, as the packets use to be sent. I do much rejoice to hear of his Majesty's health and good disposition. For me, though I am incessantly in business, yet the re-integration of your love maketh me find all things easy. God preserve and prosper your Lordship.

Your Lordship's true friend,
and devoted servant,
FR. BACON.

York-house, October 18, 1617.

The ordinance for the Reporters was passed on the 24th of October, and I think we may infer from the foregoing correspondence that it had been drawn up by Bacon himself, and is therefore entitled to a place here among his occasional works. The following document, which I find in Rymer (addressed to Sir Francis Bacon and Sir Julius Cæsar—the Lord Keeper and the Master of the Rolls) is no doubt a copy of one of the Privy Seals which were enclosed in the last letter.

ORDINATIO QUA CONSTITUUNTUR LEZ REPORTERS DE LEGE.[2]

Whereas we have made our ordinance for the constituting of Reporters of the Law, and passed the same under the Great Seal of England in form following.

It hath well appeared how careful we have been for the preserving and maintaining of the laws of this our realm of England by this, that we neither have introduced or admitted any innovations, neither have we for our part suffered any neglect or delay in the administration of them, but by often consultations

[1] Probably the arrangement for transferring the Mastership of the Wards from Lord Wallingford to Sir Lionel Cranfield.

[2] Rymer, vol. xvii. p. 27. I give the title as I find it. But I suppose *lege* should be *leye*.

and conferences with our Judges of the land, far more frequent than in any former time, and by countenancing them in bearing up their authority in the eyes of our people, we have given life and vigour to our said laws and the execution of them;

Nevertheless our princely care ceaseth not here, but we are further desirous that the effects and fruits thereof may be derived unto posterity in such sort as that in our time there may be built by the true knowledge of the laws (as it were) a good and durable wall about the rights of our crown and people:

Wherefore, finding that the Common Law of England is principally declared by the grave resolutions and arrests[1] of the reverend and learned Judges upon the cases that come before them from time to time, and that the doubts and questions likewise which arise upon the exposition of statute-law are by the same means cleared and ruled; we do in our royal judgment perceive and conclude that nothing can more conduce to the good of our laws than the keeping of that fountain clear, without trouble or mixture:

In regard whereof we have thought good to revive and renew the ancient custom of appointing some grave and learned lawyers to attend our courts at Westminster, for the reporting of the judgments and resolutions of law which there shall pass from time to time; whose duty we intend to be to report (though compendiously yet truly and narratively) that which passeth according to the ancient manner, in such sort as that the principal case adjudged may be discerned from any by-cases, and the point adjudged upon debates may be likewise distinguished from that which is but an admittance; and which of the by-cases are put by the Judges as their opinions, and which are put only by the serjeants or pleaders their part; so that authorities of unequal natures be not confounded, but everything may appear in the true weight:

Wherefore we do ordain and establish, for us our heirs and successors, that for all times hereafter there shall be two persons, by us our heirs and successors to be named and appointed, which shall be Reporters of the Law, and shall divide their labours

[1] "*Arrest* (*arestum*) cometh of the French (*arrester*, i. *retinere*, *restare*, *subsistere*), or rather it is a French word in itself, signifying a settling, stop, or stay, and is metaphorically used for a decree or determination of a cause debated or disputed to and fro, as (*arrest du Senat*, i. *placitum curiæ*)." Cowell's Interpreter.

betwixt themselves as they think good, and shall always attend the Judges of such courts where the judgment or resolutions shall pass with their reports, to the end they may be considered of and reviewed by the said Judges before they be published, and likewise that they be presented to our Chancellor or Keeper for the time being, that we may be acquainted therewith, and such of our Council as we may think convenient.

And we do ordain constitute and grant, for us our heirs and successors, that either of the said persons shall have and receive the yearly fee of *one hundred pounds;* not doubting also but the Judges of all our courts will countenance and respect the said reporters upon all occasions, as men employed in a service tending so greatly to the honour and preservation of the laws of our realm, and founded by our royal constitution.

These are therefore to will and require you to cause the same to be published and inrolled within our Court of Chancery, and withal to take order that[1] as often as there shall be any occasion of arguments in our said courts, to[1] appoint our said reporters a convenient place for the taking and writing of the same.

Given under our Privy Seal at our palace of Westminster, the four and twentieth day of October in the fifteenth year of our reign of England, France and Ireland, and of Scotland the one and fiftieth.

From the reference to this measure inserted by Bacon in the margin of his manuscript, opposite to the passage in which it had been originally recommended (see p. 69,) I infer that he regarded it as an important point gained and a fact accomplished. The compilation of "a perfect course of law, or Year-books, from Edward the First to this day"—the day on which he was writing—was a work which had still to be done. He had shown how it should be done and urged the necessity of doing it; but as far as the past years were concerned, it remained (as it still remains) a thing to be wished for. For the future however he thought it was done indeed. "The course" (that is, the Year-books for the time past) "being thus compiled,"—he had said in his "Proposition," two years before,—"then it resteth but for your Majesty to appoint some grave and sound lawyers, with some honourable stipend, to be Reporters for the time to come, and then this is settled for all times." Reporters had now been appointed accordingly, and since that which they had to do was no

[1] So printed in Rymer.

way dependent upon the other being done first, he pleased himself with the belief that a real and effectual provision had been made to keep the law in order for the future, in so far as it depended upon the decisions of the Judges.

It seems however that something was wanted still; this measure like the rest came to nothing, and serves only for one illustration more of the fallibility of the most sagacious judgments, when they aspire to provide for the wants and govern the proceedings of another generation. That the scheme itself was both judicious and workable, and that if it had been properly followed out for the last 250 years it would have made the problem of law-reform a much easier one for this generation than it is, I find it impossible to doubt. The defect must have been in what Bacon would have called the *instrumenta animata*. The very object of an improved system of reporting was to diminish the uncertainty of the law. Now uncertainty means delay, expense, and litigation. But delay, expense and litigation are the very things by which, though the people suffer, the lawyers thrive; and as the Reporters were of necessity lawyers, subject to the authority and supervision of other lawyers,—whose power as interpreters of the law was the more absolute the more doubtful the law was which they had to interpret,—it is not surprising that a duty involving trouble was not performed with zeal. Mr. Foss ascribes the failure to an oversight in the ordinance itself, which I cannot however consider a defect. According to him, the institution came to nothing because it was not made a monopoly. "As it did not contain," he says, "a prohibition against other persons, it soon became a dead letter."[1] If so, its death is not to be regretted: for such a prohibition would have been quite unjustifiable. If the appointment of official reporters could be of no use unless all other persons were forbidden to report, it would certainly have been better not to appoint any. But why should we think so? If the Judges had cared to have their resolutions correctly and judiciously reported, and the reports duly authenticated, they could undoubtedly have secured for the official reports a substantial value which would have put competition out of the question: and if the persons appointed to the office were competent, and were countenanced, provided for, conferred with, and overlooked by the Judges, according to the intention of the ordinance, their reports *must* have had such a value. When the question was what had been laid down for law in a given case, they would have been the only evidence. The cause of the failure I am afraid lay deeper. Its success depended upon the co-operation of those

[1] Lives of the Judges, vol. vi. p. 48.

who did not wish it to succeed. The law cannot be made simpler, cheaper, speedier, surer, and more generally intelligible, without the help and consent of the lawyers; and it is the interest of the lawyers that the law should be intricate, costly, slow, uncertain, and intelligible to none but themselves. All the work is paid for by others, and the more uncertainty the more work.

It is true that among the barristers to whom the chances of the profession give leisure, and the favour of law-publishers gives opportunity, to do the work of reporters, there are some who are more learned than some of the Judges; and it is even said that among the volumes of reports which stand highest in reputation for the soundness of the decisions which they record, there are some which were manufactured out of the proceedings of Judges who were famous for the contrary. But it is needless to say that this is not a mode of correcting the deficiencies of the law which Bacon would have thought satisfactory. Indeed the fact makes so good a piece of satire upon the way this part of the business is managed, that one might take it for a joke; but I have heard it stated as a truth. Under Bacon's system there need have been no difficulty in calling in the care and learning of the Reporters to discover and correct the errors of the Bench, but it would have been done on due deliberation and with the sanction of the whole body.

The following letters show what other business was in hand at this time.

To the Lord Keeper.[1]

My hoble Lord,

I have sent yor Lop back the Privy Seals and Patents signed by his Matie, the blanks being filled up with those names you recommended. The letter touching the business of the Court of Wards I have sent signed to my Lo. of Wallingford by post. His Matie hath been somewhat touched with his old pain of his foot since his coming hither, but now (God be thanked) he is able to go abroad, and purposeth to hawk this afternoon. And so I rest

Yor Lops faithful friend & servant,

G. Buckingham.

Hinchinbrooke the
21 of October 1617.

To the Lord Keeper.[2]

My hoble Lord,

I have delivered the Judges' advice touching the middle shires, unto

[1] Harl. MSS. 7006. f. 27. Orig. Docketed by Meautys. "Octobr 21, 1617. My Lo. of Buckm to yr Lp. upon the sending of the Patents signed by the K. touching Reporters of the Law."

[2] Harl. MSS. 7006. f. 29. Orig. Docketed by Meautys, "Oct. 26, 1617. The Earl of Buckm to your Lp. touching the Middle Shires."

his Majesty, who liketh it very well. As for the point of law, his Majesty will consider of it at more leisure, and then send you his opinion thereof. And so I rest

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Hinchingbroke, the 22d of October, 1617.

To THE LORD KEEPER.[1]

My honourable Lord,

His Majesty hath spent some time with Sir Lionel Cranfield about his own business, wherewith he acquainted his Majesty he hath had some conference with your Lordship, upon whose report to his Majesty of your zeal and care of his service, which his Majesty accepteth very well at your hands, he hath commanded Sir L. Cranfield to attend your Lordship, to signify his further pleasure for the furtherance of his service, unto whose relation I refer you. His Majesty's further pleasure is you acquaint no creature living with it, he having resolved to rely upon your care and trust only. Thus wishing you all happiness, I rest

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

October 26, 1617.

To THE EARL OF BUCKINGHAM.[2]

My very good Lord,

I send your Lordship the certificate touching the inrolment of prentices. We can find no ground for it by law. My will shall ever be ready to further any thing your Lordship recommendeth; but where the matter will not bear it your Lordship I know will think not the worse but the better of me if I signify the true state of things to your Lordship; resting ever

Your Lordship's true friend and devoted servant,

FR. BACON, C. S.

York-house, 29 Octob. 1617.

The Certificate.[3]

According to his Majesty's command signified by your Lordship's letters, we have advisedly considered of the petition touch-

[1] Harl. MSS. 7006, f. 31. Copy by Meautys. Docketed "Octob. 26, 1617. The Earl of Buck^m to your Lp. importing his Mn. special service to be further imparted to your Lp. by Sir Lionel Cranfield." Below, in Bacon's hand, "Tresury and Subcommittees, Select."

[2] Gibson Papers, vol. viii. f. 80. Fair copy by Meautys. No fly leaf. Indorsed in the usual hand, "29 Oct. 1617. To Lord of Bucking. touching the enrolment of Apprentices."

[3] Stephens's first collection, p. 218. From the original.

ing the inrolment of apprentices' indentures, and heard the petitioner's counsel, and do find as followeth:

1. That the Act of Parliament 5° Eliz. doth not warrant the erecting of an office to inroll such indentures in cities, towns corporate, or market towns. But if any such inrolment should be, it must be by the officers there, who are assigned to perform sundry other things touching apprentices and servants.

2. That in country villages (for which the suit carrics most colour) we cannot give the suitors hope that any profit will be there made, warrantable by law.

Thus we have (according to our duties) certified our opinions of this petition, submitting the same nevertheless to his Majesty's great wisdom; and rest

At your Lordship's command,

FR. BACON, C.S. H. MONTAGUE. THO. COVENTRY.

Oct. 25, 1617.

It will be seen by the dates of the last letters that Bacon was now established in York House: and a letter relating to the lease (the exact date of which I do not know how to determine) may come in here as fitly as anywhere.

Upon the death of the late Lord Chancellor, Bacon had applied to the Archbishop of York—Tobias Matthew, father of his friend Tobie—for a lease of the house in which his own father had lived and himself had been born. The Archbishop's answer,—communicated by Buckingham, through whom the application had been made, on the 18th of May, 1617,—was that he "put it wholly into his hands, to do with it what he pleased." The first arrangement seems to have been a lease for life. But afterwards—how long after I do not know, but long enough to allow of the spending of a thousand marks in reparation—he wished to turn it into a lease for 21 years; and accordingly wrote to the Archbishop the following letter.

TO THE LORD ARCHBISHOP OF YORK.[1]

My very good Lord,

I must use a better style than mine own in saying, *Amor tuus undequaque se ostendit ex literis tuis proximis.* For which I give your Grace many thanks, and do with more confidence continue my suit to your Lordship for a lease absolute for

[1] Gibson Papers, vol. viii. f. 245. Copy. Docketed, "A letter to the Bishop of Yorke touching a lease to be made for 21 years of Yorkehouse."

twenty-one years of the house; being the number of years which my father and my predecessors fulfilled in it. A good fine requires certainty of term; and I am well assured, that the charge I have expended in reparations, amounting to 1000 marks at least already, is more than hath been laid out by all the tenants that have been in it since my remembrance, answerable to that particular circumstance which is peculiar to myself, that I was born there, and am like to end my days there. Neither can I hold my hand, but upon this encouragement am like to be doing still, which tendeth to the improvement in great measure of the inheritance of your see by superlapidations, if I may so call it, instead of delapidations, wherewith otherwise it might be charged.

And whereas a state for life is a certainty, and not so well seen how it wears, a term for years makes me more depending upon you and your succession.

For the providing of your Lordship and your successors a house, it is part of the former covenant, wherein I desired not to be released. So assuring myself of your grant and perfecting of this my suit; and assuring your Grace of my earnest desire and continual readiness to deserve well of you and yours chiefly, and likewise of your see in any the causes or preeminences thereof, I commend your Grace to God's goodness, resting, etc.

3.

On the 27th of October Secretary Winwood died, after a week's illness; leaving an important office vacant, but less disturbance otherwise than might have been expected from the sudden removal of a man so active and busy, the head of the popular court faction, and at the same time "in his highest favour with the King, Queen, Prince, and principal favourite."[1] His death makes a considerable figure in the news letters of the day, but none at all in this correspondence. The principal event which followed, though I do not know that it really had anything to do with it, was the restoration to liberty of Lady Hatton, who (according to Chamberlain) laid all the fault of her late troubles upon him. She was set free on the 2nd of November, and a week after gave a great dinner to the King and Prince, which seems to have been the celebration of her reconciliation with everybody—except her husband. As we do not often hear

[1] Chamberlain to Carleton, 31 Oct. 1617. S. P. vol. xciii. no. 158.

of Bacon assisting at festivities of this kind,[1] a contemporary notice of it may be worth inserting.

"This day was the great feast at Hatton House made to the King and Prince and their followers, lords and ladies, by the most noble lady my La. Eliz. Hatton. My Lo. Coke only was absent, who in all vulgar opinions was there expected. His Majesty was never merrier nor more satisfied, who had not patience to sit a quarter of an hour without drinking the health of my La. Eliz. Hatton, which was pledged first by my Lo. Keeper and my Lord Marquis Hamilton, and then by all the lords and ladies with great gravity and respect, and then by all the gallants in the next room."[2]

No successor was appointed for the present to Winwood. "The King said he was never so well served as when he was his own secretary, and to that end" (says Chamberlain) "had delivered the seals that were belonging to Sir Ralph Winwood to the custody of the Earl of Buckingham, and there perhaps they shall remain till they both grow weary of the trouble."[3]

The correspondence with Bacon went on in the mean time much as before—only that Sir Lionel Cranfield begins now to appear on the scene as an indispensable man, who must be waited for if he is not ready. He was the same person whose proposition for the arrangement of the dispute about "Impositions" two or three years before had been noticed by Bacon with approval, as more statesman-like than he should have expected from a man of his breeding. He had been bred apprentice to a merchant in the city, and having married his master's daughter had risen to be a merchant himself; and being apt and able in his own vocation was very well qualified to assist in the principal business upon which the Council was now engaged—the retrenchment of needless expenditure in the King's household and the rectification of his finances. Bacon's correspondence for the rest of the year relates chiefly to their labours in this matter; but as it turns for the most part upon details which have no interest for modern readers, and the general course and spirit of their proceedings may be followed without difficulty, it may be left to tell its own story.

[1] He had been feasted, together with the Judges, by the college of Westminster three days before: when his munificence to the King's scholars is noted by Camden.

[2] John Pory to Sir D. Carleton, 8 Nov. 1617. S. P. xciv. no. 15.
Chamberlain to Carleton, 8 Nov. Ibid. no. 12.

TO THE LORD KEEPER.[1]

My honourable Lord,

I have thought good to renew my motion to your Lordship in the behalf of my Lord of Huntingdon my Lord Stanhope and Sir Thomas Gerard, for that I am more particularly acquainted with their desires. They only seeking the true advancement of the charitable uses unto which the land given by their grandfather was intended, which as I am informed was meant by way of a corporation, and by this means if it might be settled upon the schoolmaster usher and poor, and the coheirs to be visitors, the tenants might be conscionably dealt withal, and so it will be out of the power of any feoffees to abuse the trust, which as it hath been lately proved, have been hitherto the hindrance of this good work. These coheirs desire only the honour of their ancestor's gift, and wish the money misemployed and ordered to be paid into court by Sir John Harper may rather be bestowed by your Lordship's discretion for the augmentation of the foundation of their ancestors than by the censure of any other. And so I rest

Your Lordship's servant,

G. BUCKINGHAM.

Theobalds, 12 November.

TO THE LORD KEEPER.[2]

My honourable Lord,

Though I had resolved to give your Lordship no more trouble in matters of controversy depending before you, with what importunity soever my letters had been desired;[3] yet the respect I bear unto this gentleman hath so far forced my resolution as to recommend unto your Lordship the suit, which I am informed by him is to receive a hearing before you on Monday next, between Barnaby Leigh and Edward Dyer, plaintiffs, and Sir Thomas Thynne, defendant; wherein I desire your Lordship's favour on the plaintiffs' behalf so far only as the justice of their cause shall require. And so I rest

Your Lordship's faithful servant,

G. BUCKINGHAM.

Newmarket, the 15 of Nov.

[1] Harl. MSS. 7006. f. 33. orig. Docketed by Meautys, "12 Novemb[r] 1617. The Earl of Buck[m] to your Lp. in the behalf of the Lo. Huntingdon and others."

[2] Harl. MSS. 7006. f. 35. orig. Docketed by Meautys, "15 Novemb[r] 1617. The Earl of Buck[m] to y[r] Lp, in the behalf of Mr. Leigh and others."

[3] I have observed that any remonstrance which Bacon felt called to make with Buckingham against writing letters of this kind would have been best made by speech. This passage seems to imply that something of the kind had actually passed between them.

TO THE LORD KEEPER.[1]

My honourable Lord,

The certificate being returned upon the commission touching Sir Richard Haughton's alum-mines, I have thought fit to desire your Lordship's furtherance in the business, which his Majesty (as your Lordship will see by his letter) much affecteth as a bargain for his advantage, and for the present relief of Sir Richard Haughton. What favour your Lordship shall do him herein I will not fail to acknowledge, and will ever rest

Your Lordship's faithful servant,

G. BUCKINGHAM.

TO THE LORD KEEPER.[2]

My honourable Lord,

I have acquainted his Majesty with your Lordship's letter, who liketh well the Judges' opinion you sent unto him; and hath pricked the sheriff of Buckinghamshire in the roll you sent, which I return signed unto your Lordship.

His Majesty taketh very well the pains you have taken in sending to Sir Lionel Cranfield, and desireth you to send to him again and to quicken him in the business.

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

His Majesty liketh well the course taken about his household, wherewith he would have your Lordship and the rest of his council to go forward.

Newmarket, the 17th of November, 1617.

TO THE LORD KEEPER.[3]

My honourable Lord,

Understanding that Thomas Hukeley a merchant of London of whom I have heard a good report, intendeth to bring before your Lordship in the Chancery a cause depending between him in right of his wife, daughter of William Austen, and one John Horsmendon who married another daughter of the said Austen, I have thought fit to desire your Lordship to give the said Thomas Hukeley a favourable hearing when his cause shall come before you, and so far to respect him for my sake as

[1] Harl. MSS. 7006. f. 37. orig. Docketed by Meautys, "Rec. 16 Novembr 1617: The Earl of Buckingham to yo^r Lp. on the behalf of Sir Richard Haughton."

[2] Harl. MSS. 7056. f. 39. orig. Docketed by Meautys, "November 17, 1617: My Lord of Buckingham to your Lp showing his Majesty's approbation of the course held touching the household."

[3] Harl. MSS. 7006. f. 41. orig.: no date. Docketed by Meautys, "The Earl of Bucking^m to yo^r Lp. in the behalf of one Hukley;" (date of docket worn off).

your Lordship shall see him grounded upon equity and reason; which is no more than I assure myself your Lordship will grant as readily as it is desired by

Your Lordship's faithful friend and servant,
G. BUCKINGHAM.

TO THE EARL OF BUCKINGHAM.[1]

My very good Lord,

The liking which his Majesty hath of our proceeding concerning his Household, telleth me that his Majesty cannot but dislike the declining and tergiversation of the inferior officers; which by this time he understandeth.

There be but four kinds of retrenchments. 1. The union of tables. 2. The putting down of tables. 3. The abatement of dishes to tables. 4. The cutting off new diets and allowance lately raised; and yet perhaps such as are more necessary than some of the old.

In my opinion, the first is the best and most feasible. The Lord Chamberlain's table is the principal table of state. The Lord Steward's table I think is much frequented by Scottish gentlemen. Your Lordship's table hath a great attendance; and the Groom of the Stole's table is much resorted to by the Bedchamber. These would not be touched. But for the rest (his Majesty's case considered) I think they may well be united into one.

These things are out of my element, but my care runneth where the King's state most laboureth: Sir Lionel Cranfield is yet sick, for which I am very sorry; for methinks his Majesty, upon these tossings over of his business from one to others, hath an apt occasion to go on with sub-committees. God ever preserve and prosper you.

Your lordship's true friend and devoted servant,
FR. BACON, C. S.

York-house, Nov. 19, 1617.

TO THE LORD KEEPER.[2]

My honourable Lord,

His Majesty commanded me to write to your Lordship, that he wonders your hand being at that letter of the Lords of the Council,

[1] Stephens's first collection, p. 219. From the original.
[2] Harl. MSS. 7006. Docketed by Meautys, Nov. 19, 1617: "The Earl of Buck^m to y^r Lp, signifying the K's pleasure to have your Lps opinion in particular touching Sir Lionel Cranfield's proposition, wh his M. would have pursued."

which he saith is a very blunt one: you have not besides sent him some advice of your own, his Majesty having trusted you only to speak with Sir Lionel Cranfield about his estate.

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

My Lord, his M. commanded me to add that he thinketh it will be now a fit time to make use of Sir Lionel Cranfield's proposition, which you will find he toucheth in general at the end of his letter to the Lords, and would have you send your opinion of it.

Newmarket the 19 of November
1617

TO THE EARL OF BUCKINGHAM.[1]

My very good Lord,

The last letter of my Lords, whereof the conclusion indeed is a little blunt, as the King calleth it, was concluded in my absence (which hath been but once since I came to this town), and brought me by the Clerk of the Council as I sat in Chancery; whereupon I retired to a little closet I have there, and signed it, not thinking fit to sever.

For my opinion, I dispatched it the morrow following. And till Sir Lionel Cranfield be able to execute his part in the sub-commission, it will in my opinion not be so fit to direct it. He crept to me yesternight, but he is not well. I did his Majesty's message to him touching the tobacco; and he said he would give his Majesty very real and solid satisfaction touching the same.

This is all for the present I shall trouble your Lordship withal, resting ever

Your Lordship's true friend,
and devoted servant,

November 20, 1617. FR. BACON.

TO THE EARL OF BUCKINGHAM.[2]

My very good Lord,

Yesterday at afternoon were read at the table his Majesty's two letters, written with his own hand; the matter worthy the

[1] Gibson Papers, vol. viii. f. 81. Fair copy by Meautys. No fly-leaf. Indorsed in the usual hand, "To Lo. Buck^m referring to a letter from the Board which his Ma^ty said concluded somewhat bluntly."

[2] Gibson Papers, vol. viii. f. 82. Fair copy by Meautys. No fly-leaf. Indorsed, "To the Lo. Buck^m referring to his Ma. letter written to the Council with his own hand."

hand; for they were written *ex arte imperandi*, if I can judge. And I hope they and the like will disinchant us of the opinion which yet sticks with us, that to-day will be as yesterday, and to-morrow as to-day; so that these things will be (as he saith) *acribus initiis, fine incurioso*.

I hold my opinion given in my former letter, that the uniting of some tables is the most passable way. But that is not all; for when that is done, the King may save greatly in that which remaineth. For if it be set down what tables shall be fixed, and what diet allowed to them, my steward (as ill a *mesnager* as I am) or my Lord Mayor's steward, can go near to tell what charge will maintain that proportion. Then add to that some large allowance for waste (because the King shall not lose his prerogative to be deceived more than other men) and yet no question there will be a great retrenchment. But against this last abatement will be fronted the payment of arrears. But I confess I would be glad that I might see, or rather that a Parliament may see, and chiefly that the King (for his own quiet) may see, that upon such a sum paid, such an annual retrenchment will follow: for things will never be done in act except they be first done in conceit.

I know these things do not pertain to me; for my part is to acquit the King's office towards God by administration of justice, and to oblige the hearts of his people to him by the same, and to maintain his prerogative. But yet because it is *in hoc* that the King's case laboureth, I cannot but yield my care, and my strength too in council, such as it is; which cannot be so much as it was between our Lady day and Michaelmas last;[1] but whatsoever it is, it is wholly his Majesty's without any deflexion.

As soon as I find any possibility of health in Sir Lionel Cranfield to execute a sub-commission, I will by conference with him frame a draught of a letter from his Majesty, for which there is the fairest occasion in the world, and the King hath prepared it as well as is possible. God ever preserve and prosper you.

Your Lordship's true friend and devoted servant,

FR. BACON, C. S.

York-house, Nov. 22, 1617.

[1] That is, when he was chief councillor in the absence of Coke.

TO THE R. HON. HIS VERY GOOD L. THE EARL OF BUCKINGHAM, OF HIS MS MOST HON. PRIVY COUNCIL.[1]

My Lord,

How well I wish to Sir G. Haughton, himself I dare say doth not doubt, partly out of mine own affection, and chiefly for your Lordship's affection towards him, which to me is more than mine own. That the King should make bargains of hope, when his treasure sufficeth not for his own charge, I may not advise for my dearest friends; for I am nailed to the King's estate. But two things I shall assent unto. The one, that if the King can redeem his works without charge of coffers, I shall be glad of it, both for the gentleman's sake, and because I perceive the uniting of the allum-works in the King's hand is best. The other, that if his Majesty be pleased to signify his pleasure to my Lord Treasurer and me that there be no forfeiture taken by Bannester till the King shall advise of this bargain, we will hold him to it. God preserve and prosper your Lordship. Your Lordship, I think, perceiveth both by scribbling and cursory inditing, that I write in straits of business.

Your Lordship's true friend and devoted servant,

FR. BACON, C. S.

York-house, this 24th of Nov. 1617.

THE LORD KEEPER AND THE LORD TREASURER TO THE KING.[2]

It may please your Ma^tie

We have according to your Ma^ts command taken into our consideration the offers made by Sir Richard Haughton to your Ma^ty of his Allom works, and as well by our own experience in general as upon particular conference with divers your Ma^ty's officers and others fourth[3] of long practice likeliest to have best knowledge in those works, we find That your Ma^ty's own Allom works are now already settled for the yearly making of so many tons of Allom as (according to a medium thereof formerly cast up) can possibly receive vent either at home or abroad. So that if these works of Sir Richard Haughton's were at this instant in your Ma^ty's hands we do not see to what purpose your Ma^ty

[1] Fortescue Papers. Original: own hand.
[2] Fortescue Papers. Original,
[3] So in original.

should be at the charge to keep them up, being there is as much Allom already undertaken to be made for your Ma^ty as can be vented.

Besides your Ma^ty having been already at so great a charge in settling these works of your own, how fit it may be to issue more monies in these needful times on a new work unnecessary, we humbly leave to your Ma^ty's good consideration. Yet being that the making and selling of Allom at Sir Richard Haughton's works may hinder the vent of the proportion now made at your Ma^ty's, in that respect your Ma^ty may please to gratify him with some such convenient suit as he shall find out fit for your Ma^ty to grant in lieu of the benefit of his Allom works. And in the mean time till such a suit be found, if your Ma^ty shall please to lay some command upon Sir Robert Banister to forbear to take the extremity of the forfeiture of Sir Richard's lands, yet so as he may sustain no loss in the forbearance of his monies, we think your Ma^ty deals very graciously with Sir Richard Haughton, and it cannot be much prejudicial to Sir Robert Banister.

We have sent some other certificates and reasons concerning the state of this business to our very good Lord the Earl of Buckingham to give your Ma^ty further information therein. All which we humbly submit to your Ma^ty's good pleasure.

Your Ma^ty's most humble servants

FR. BACON, C. S.

T. SUFFOLKE.

xxiiij° No. 1617.

TO THE EARL OF BUCKINGHAM.[1]

My very good Lord,

I send your Lordship a draught of a letter touching the sub-commission, written in wide lines, because it may be the better amended by his Majesty. I think it is so penned as none can except to it, no nor imagine any thing of it. For the household business there was given a fortnight's day; for the pensions, the course which I first propounded, of abating of a third throughout, and some wholly, seemeth well entered into. These be no ill

[1] Stephens's first collection, p. 222. From the original. There is a fair copy in the Gibson Papers, viii. f. 84. But it is a copy without any traces of correction, and the punctuation is in one case clearly wrong.

beginnings. But this course of the sub-commission thrids all the King's business. God ever preserve and prosper you.

Your Lordship's true friend and devoted servant,

FR. BACON, C. S.

York-house, 27 Nov. 1617.

Sir Lionel Cranfield is now reasonably well recovered.

DRAUGHT OF THE SUB-COMMISSION.

My Lords,

In this first and greatest branch of our charge concerning our House, we do find what difficulties are made, and what time is lost, in disputing and devising upon the manner of doing that[1] whereof the matter must be and is so fully resolved. Neither can we but see in this, as in a glass, the like event to follow in the rest upon like reason. For the inferior officers in every kind, who are best able for skill to propound the retrenchments, will out of interest or fearfulness make dainty to do service; and that which is done with an ill will will never be well done. Again, to make it the act of the whole table, for the particular propositions and reckonings, will be too tedious for you, and will draw the business itself into length; and to make any particular committees of yourselves, were to impose that upon a few, which requireth to be carried indifferently as the act of you all. For since the great officers themselves[2] think it too heavy for them, as our state now is, to deal in it, without bringing it to the Table; with much more reason may any particular persons of you be loth to meddle in it, but at the Board. In all which respects we have thought fit (neither do we see any other way) that you send unto us the names of the officers of our Exchequer, and our Custom-house, and Auditors, out of which we will make choice of some few, best qualified to be sub-committees, for the better ease and the speeding of the business by their continual travels and meetings; whose part and employment we incline[3] to be to attend the principal officers[4] in their several charges, and join themselves to some of the inferior officers, and so take

[1] So in MS. Stephens's copy has, "in disputing and of devising upon the manner of doing it:" Perhaps "that" was written "yt."

[2] *themselves respectively* in MS.

[3] *intend* in MS.

[4] *principal officers respectively* in MS.

upon them the mechanic and laborious part of every business, thereby to facilitate and prepare it for your consultations, according to the directions and instructions they shall receive from you from time to time.[1]

To the Lord Keeper.[2]

My honourable Lord,

His Majesty liketh very well of the draught your Lordship sent of the letter for the sub-commission, and hath signed it as it was without any alteration, and sent it to the Lords. Which is all I have to write at this time, but that I ever rest

Your Lordship's faithful friend and servant,

G. Buckingham.

Newmarket, the 2 of Decemb. 1617.

To the Lord Keeper.[3]

My honourable Lord,

His Majesty hath been pleased to refer a petition of one Sir Thomas Blackstones to your Lordship, who being brother-in-law to a gentleman whom I much respect, Sir Henry Constable, I have at his request yielded to recommend his business so far to your Lordship's favour as you shall find his case to deserve compassion and may stand with the rules of equity. And so I rest

Your Lordship's faithful friend and servant,

G. Buckingham.

Newmarket, the 4th December.

The Council to the King.[4]

May it please your Majesty,

Being yesterday assembled in Council to proceed in the course we had begun for retrenchment of your Majesty's expences; we received your princely letters, whereby we are directed to send to your Majesty the names of the officers of

[1] There is a copy of this draught in Gibson Papers, viii. f. 85, which is corrected throughout in Bacon's own hand, and is no doubt the original draught. Stephens's copy must have been from the fair copy actually sent; for the King, as we see by the answer, made no alterations in it. The draught is in the singular person throughout.

[2] Harl. MSS. 7006. f. 50. Orig. Docketed by Meautys, "Dec. 2, 1617. My Lo. of Buck^{m} to y^{r} Lp. signifying the K.'s approbation of the draught of y^{r} Lp.'s letter touching the sub-commission."

[3] Harl. MSS. 7006. f. 52. Orig. Docketed by Meautys, "4^{o} Decembris, 1617. The Earl of Buck^{m} to y^{r} Lp. in the behalf of one Sir Thomas Blackstones, knight."

[4] Stephens's second collection, p. 69. From the original.

the Exchequer, Custom-house, and Auditors, out of which you purpose to make choice of some to be sub-committed[1] to handle the mechanic and laborious part of that which your Majesty had appointed to our care; we have according to our duty sent unto your Majesty the names of the several officers of your Majesty in those places, to be ordered as your wisdom shall think best to direct. But withal, we thought it appertenant to our duties to inform your Majesty how far we have proceeded in the several heads of retrenchments by your Majesty at your departure committed unto us, that when you know in what estate our labours are, your judgment may the better direct any further course as shall be meet.

The matter of the household was by us, some days since, committed peremptorily to the officers of the house, as matter of commandment from your Majesty, and of duty in them, to reduce the expence of your house to a limited charge of fifty thousand pounds by the year, besides the benefit of the compositions; and they have ever sithence painfully (as we are informed) travailed in it, and will be ready on Sunday next, which was the day given them, to present some models of retrenchments of divers kinds, all aiming at your Majesty's service.

In the point of pensions we have made a beginning, by suspending some wholly for a time, and of others of a third part; in which course we are still going on, until we make it fit to be presented to your Majesty; in like manner the Lord Chamberlain and the Lord Hay did yesterday report unto us, what their travail had ordered in the Wardrobe: and although some doubt did arise unto us, whether your Majesty's letters intended a stay of our labours until you had made choice of the Sub-committee intended by you; yet presuming that such a course by sub-committee was purposed rather for a furtherance than lett to that work, we did resolve to go on still till your Majesty's further directions shall come unto us; and then according to our duty we will proceed, as we shall be by your Majesty commanded. In the mean time we thought it our duty to inform your Majesty of what we have done, that neither your Majesty may conceive that we have been negligent in those things which were committed unto us, nor your directions by your late letters hinder or cast back that which is already so far proceeded in.

[1] So printed by Stephens.

And so humbly kissing your royal hands, and praying to the Almighty for your long and happy reign over us, we rest

Your majesty's most humble
and obedient subjects and servants,

G. CANT.	FR. BACON, C. S.	T. SUFFOLK.
E. WORCESTER.	LENOX.	PEMBROKE.
T. ARUNDEL.	W. WALLINGFORD.	L. ELIEN.
E. WOTTON.	JAMES HAY.	T. EDMONDS.
T. LAKE.	JUL. CÆSAR.	EDW. COKE.
		C. EDMONDS.

5 Dec. 1617.

TO THE EARL OF BUCKINGHAM.[1]

My very good Lord,

Your Lordship may marvel that together with the letter from the board (which you see passed so well) there came no particular letter from myself; wherein, though it be true that now this very evening I have made even with the causes of Chancery, and comparing with the causes heard by my Lord that dead is, of Michaelmas-term was twelvemonth, I find them to be double so many and one more; besides that the causes that I dispatch do seldom turn upon me again, as his many times did; yet nevertheless I do assure your Lordship that should have been no excuse to me, who shall ever assign both to the causes of the subject, yea and to my own health, but the leavings of times after his Majesty's business done; but the truth is I could not speak with Sir Lionel Cranfield (with whom of necessity I was to confer about the names) till this afternoon.

First therefore I send the names (by his advice and with mine own good allowance) of those which we wish his Majesty should select; wherein I have had respect somewhat to form, more to the avoiding of opposition, but most to the service.

Two most important effects his Majesty's letter hath wrought already. The one, that we perceive his Majesty will go thorough stitch; which goeth to the root of our disease. The other, that it awaketh the particular officers, and will make their own en-

[1] Gibson Papers, vol. viii. f. 83. Copy by Mcautys. Docketed "Dec. 6, 1617. Your Lp. to the Earl of Buck^m enclosing names to be selected by his Ma. for the sub-commissioners."

deavours and propositions less perfunctory, and more solid and true. For the future, somewhat is to be done presently, and somewhat by seasonable degrees.

For the present my advice is his Majesty would be pleased to write back to the table, That he doth well approve that we did not put back or retard the good ways we were in of ourselves, and that we understood his Majesty right that his late direction was to give help and not hindrance to the former courses, and that he doth expect the propositions we have in hand, when they are finished. And that for the sub-commissioners, he hath sent us the names he hath chosen out of those by us sent and propounded, and that he leaveth the particular directions from time to time in the use of the sub-commissioners wholly to the table.

This I conceive to be the fairest way; first to seal[1] the sub-commission without opening the nature of their employments, and without seeming that they should have any immediate dependance upon his Majesty, but merely upon the table.

As for that which is to be kept in breast, and to come forth by parts, the degrees are these:

First, to employ the sub-commissioners in the reconsidering of those branches which the several officers shall propound.

Next, in taking consideration of other branches of retrenchment, besides those which shall be propounded.

The third, to take into consideration the great and huge arrears and debts in every office; whether there be cause to abate them upon deceit or abuse, and at least how to settle them best both for the King's honour, and avoiding of clamour, and for the taking away (as much as may be) that same ill influence and effect, whereby the arrear past destroys the good husbandry and reformation to come.

The fourth is to proceed from the consideration of the retrenchments and arrears to the improvements.

All these four, at least the last three, I wish not to be stirred in till his Majesty's coming. God ever preserve and prosper you.

Your Lordship's true friend,
and devoted servant,
FR. BACON.

[1] Q. settle.

Your Lordship will be pleased to have a little care of the bestowing of this letter.

York-house, this 6th
of December, 1617.

To the Lord Keeper.[1]

My honourable Lord,

Lest Mr. Secretary should be come away before the delivery of this packet, I have thought fit to direct it to your Lordship, with this letter to your Lordship about the court of Wards, and another to the Lords from his Majesty. Which is all I have now to write, but that I ever rest,

Your Lordship's faithful friend and servant,

G. Buckingham.

Newmarket, the 7 of December, 1617.

To the Lord Keeper.[2]

My honourable Lord,

I have acquainted his Majesty with your Lordship's letter, who hath followed your directions therein, and hath written to the Lords accordingly. Which is all I have now to write to your Lordship, but that I shall ever rest

Your Lordship's faithful friend and servant,

G. Buckingham.

Newmarket, the 9th day of December, 1617.

The next letter relates to a matter in which Bacon's private interests were concerned. He held a patent from the Crown of some value—the farm of the Petty Writs: paying a fixed rent to the King for the privilege of receiving the proceeds to his own use. It seems that about this time Sir George Chaworth had offered to give a higher rent for it, whether upon discovery of a way to increase the value, or only as thinking that the actual proceeds were worth more, I do not know. But being a project for the King's benefit it obliged Bacon to make a new arrangement: the nature of which may be partly gathered from the next letter. He offered the King a better bargain, and contrived at the same time to make it worth Sir George's while to drop his suit. If a letter from Bacon to Buckingham of the 10th of December 1617, the opening words and the

[1] Harl. MSS. 7006. f. 54. Orig. Docketed by Meautys, "Dec. 7. 1617. The Earl of Buck^m to your Lp. enclosing a letter under the King's signature touching the Court of Wards, and another to the Lords touching the sub-commission."

[2] Harl. MSS. 7006. f. 56. Orig. Docketed by Meautys, "My lo. of Buck^m to your Lo^p shewing the king's liking of your opinion and choice of names for sub-commission."

subject of which are entered in Stephens's catalogue,[1] should be found, it would probably tell something more. In the meantime this is enough to make the following letter intelligible.

To the Earl of Buckingham.[2]

My very good Lord,

Sir George Chaworth and I am agreed, so that now I shall retain the grace of my place, and yet he rewarded. The King hath no ill bargain; for he hath four times as much as was offered by Sir George of increase, and yet I take upon me to content my servants, and to content him. Nevertheless I shall think myself pleasured by his Majesty, and do acknowledge that your Lordship hath dealt very honourably and nobly with me.

I send inclosed a letter whereby your Lordship signifieth his Majesty's pleasure to me, and I shall make the warrant to Mr. Attorney; I desire it may be carried in privateness. I ever rest

Your Lordship's true friend,
and devoted servant,
Fr. Bacon.

This New-Years eve, 1617.

4.

The new year brought some changes, but chiefly in titles and dignities. A rumour that Buckingham "meant to resign the mastership of the Horse to the Marquis of Hamilton, and was to compound with the Lord Admiral for his place,"[3] had been current a month or two before; and it may be true that the King had some project of the kind. It seems however that Buckingham himself was not a party to it. For we learn from another of Carleton's correspondents, writing on the 7th of January, that it was then said "he had absolutely refused to be Admiral, in respect of the King's service,—not being experienced in that office."[4] Upon which the King "in requital" made him a Marquis. The patent was a New-Year's gift, and bestowed apparently without any ceremony.

[1] Beginning, "I find Sir Geo. Chaworth." Contents, "Touching the farming of the small writs."

[2] Gibson Papers, vol. viii. f. 87. Copy. Docketed "The last of December, 1617. Yr Lp. to the Earl of Buckingham touching Sir George Chaworth's suit."

[3] Chamberlain to Carleton. 15 Nov. 1617.

[4] Sir Edward Harwood to Sir D. Carleton, 7 Jan. 1617-8. S. P. Dom. vol. xcv. no. 8.

On the Sunday after New-Year's day, the new Marquis made a great feast; at which among other things the Lord Keeper was made Lord Chancellor: "wherein," says Chamberlain, "besides the title he hath this advantage, that it is for life, with £600 a year increase." Nor was this the only favour bestowed upon him at this time. "The speech goes," adds the same authority, "that he shall be made a Baron, and hath the making of another given him to discharge his debts; which in courtesy he hath offered to his eldest brother for £1000 less than another should give: which he will not accept: mindful perhaps of his father's motto or posy, *mediocria firma*. His Lordship hath of late much insinuated into the King's and Lord Marquis's favour; and takes a new course of thriving; having at one clap cashiered sixteen of his gallants."[1]

This last circumstance will be found hereafter to be of some importance in connexion with the *date* of the offences for which he was impeached. It seems to indicate a serious effort to set his house in better order, at a time when his fortune was otherwise very prosperous and nothing seemed to threaten a reverse. Nor was it made altogether in vain, if it be true, as I believe it is, that none of the acts laid to his charge were then of recent date. But this belongs to a future chapter. Perhaps it was only his present occupation in the retrenchment of expenses in the King's household that reminded him of the expediency of doing the same in his own, which wanted it almost as much. Such New-Year's gifts as a pair of golden candlesticks for the Prince, or the cup of essay for the Marquis (see the next letters), were not extravagant. But if forty pounds' worth of plate as a new year's gift to the Archbishop of Spalato[2] was not an exceptional case,—if it was a fair sample of the style in which he did these things,—the disappearance of an ample income without clearing his estate from debt needs no curious explanation.

These things premised, the correspondence may go on as before.

To the Earl of Buckingham.[3]

My very good Lord,

Your Lordship's letters patents are ready. I would be glad to be one of the witnesses at the delivery. And therefore, if the

[1] Chamberlain to Carleton, 10 Jan. 1618-9. S. P. Dom. vol. xcv. no. 11.

[2] "I hear the King gave him a new-year's gift of plate to the value of £100, and the Lord Chancellor gave him one of £40." Chamberlain to Carleton, 17 Jan. 1617-18.

[3] Gibson Papers, vol. viii. f. 86. Copy by Meautys. Docketed by Meautys, "New-Year's Eve, 1617. A letter to my Lo. of Buck^m upon the sending of a New-Year's gift."

King and your Lordship will give me leave, I will bring it to-morrow at any hour shall be appointed.

Your Lordship's ever,

FR. BACON.

New-Years eve, 1617.

I am bold to send your Lordship for your New-Year's gift a plain cup of essay, in token that if your Lordship in any thing shall make me your sayman, I will be hurt before your Lordship shall be hurt. I present therewith to you my best service, which shall be my All-Year's gift.

To SIR JAMES FULLERTON.[1]

I presume to send his Highness a pair of small candlesticks of gold, in token that I hope and pray that his light and the light of his posterity upon church and commonwealth may never fail. I pray do me the favour to present it to his Highness, with my best and humblest service.

Your most affectionate and assured friend,

FR. BACON, C. S.

New-Year's Eve,
1617.

To THE LORD CHANCELLOR.[2]

My honourable Lord,

I have heretofore recommended unto your Lordship the determination of the cause between Sir Rowland Egerton and Edward Egerton, who I understand did both agree, being before your Lordship, upon the values of the whole lands. And as your Lordship hath already made so good an entrance into the business, I doubt not but you will be as noble in furthering the full agreement between the parties, whereunto I am informed Sir Rowland Egerton is very forward, offering on his part that which to me seemeth very reasonable, either to divide the lands and his adverse party to choose, or the other to divide and he to choose. Whereupon my desire to your Lordship is that you would accordingly make a final end between them in making a division and setting forth the lands according to the values agreed upon by the parties themselves. Wherein

[1] Gibson Papers, vol. viii. f. 88. Copy by Meautys. No fly-leaf. Docketed in the usual hand, "To Sir James Fullerton upon the presenting of a New-Year's gift to the Prince."

[2] He had been Surveyor of the Lands to Prince Charles, when Duke of York; and was Groom of the Stole to him when King. He died in January, 163¶. (Note by Birch.)

[3] Harl. MSS. 7006. f. 58. Orig. Docketed by Meautys, "9 Jan. 1617. The Marquis of Buck. to yr. Lp. touching Egerton's cause."

besides the charitable work your Lordship shall do in making end of a controversy between those whom name and blood should tie together and keep in unity, I will acknowledge your favour as unto myself, and will ever rest

Your Lordship's faithful servant,
G. BUCKINGHAM.

Theobalds, the 9th of January, 1617.

TO THE LORD CHANCELLOR.[1]

My honourable Lord,

His Majesty having given order to Mr. Solicitor to acquaint your Lordship with a business touching alehouses, that upon consideration thereof you might certify your opinion unto his Majesty, whether it be fit to be granted or not, I have thought fit to desire your Lordship to give it what favour and furtherance you may, (if you find it reasonable and not prejudicial to his Majesty's service,) because it concerneth Mr. Patrick Maule and my brother Christopher Villiers, whose benefit I have reason to wish and advance by any just course. And so I rest

Your Lordship's faithful servant,
G. BUCKINGHAM.

Royston, Jan. 11th, 1617.

SIR LIONEL CRANFIELD TO BUCKINGHAM, 14 JAN. 1617.[2]

"I was yesternight with my Lo. Chancellor, with whom I spent some time in acquainting him with the manner of our proceedings,[3] who was pleased to approve thereof, and is as full of hope and desire it may succeed to his Majesty's satisfaction as we that are the labourers in it."

TO THE RIGHT HON. HIS VERY GOOD L. THE L. MARQUIS OF BUCKINGHAM, OF HIS MS MOST HON. PR. COUNSEL.[4]

My very good Lord,

I write now only rather in a kind of continuance and fresh suit upon the King's business, than that the same is yet ripe either for advertisement or advice.

The sub-commissioners meet forenoon and afternoon with great diligence, and without distraction, or running several ways: which if it be no more than necessary, what would less have done? that is if there had been no sub-commissioners, or they not well chosen.

I speak with Sir Lionel Cranfield as cause requireth either

[1] Harl. MSS. 7006. f. 60. Orig. Docketed "1617, 11 January. The L. Marquis Buck. to my Lo. concerning the suit of Mr. Patrick Maule and Mr. Christopher Villiers touching alehouses."
[2] Fortescue Papers. [3] On the great business of the Household.
[4] Fortescue Papers. Orig. Own hand.

for account or direction, and as far as I can by the taste I have from him discern probably, their service will attain and may exceed his Majesty's expectation.

I do well like the course they take, which is, in every kind to set down (as in beer, in wine, in beef, in muttons, in corn, etc.) what cometh to the King's use, and then what is spent, and lastly what may be saved. This way, though it be not so accusative, yet is it demonstrative. *Nam rectum est index sui et obliqui,* and the false manner of accounting, and where the gain cleaveth, will appear after by consequence. I humbly pray his Majesty to pardon me for troubling him with these imparfite glances, which I do both because I know his Majesty thinketh long to understand somewhat, and lest his Majesty should conceive that he multiplying honours and favours upon me, I should not also increase and redouble my endeavours and cares for his service. God ever bless, preserve, and prosper his Majesty and your Lordship, to whom I ever remain

Your friend and most devoted servant,

FR. BACON, Canc.

16 Jan. 1617.

TO THE LORD CHANCELLOR.[1]

My honourable Lord,

Sir John Cotton having acquainted me with a petition he intended to exhibit to his Majesty, that without any apparent fault committed by him he was put from his office of *Custos Rotulorum* I have persuaded him to forbear the presenting of his petition until I had written to your Lordship and received your answer. I have therefore thought fit to signify unto your Lordship that he is a gentleman of whom his Majesty maketh good esteem, and hath often occasion to use his service, and therefore (besides that he is a man of good years, and hath served long in the place) I know his Majesty out of these respects will be loth he should receive any disgrace. I desire therefore to understand from your Lordship the reasons of his remove, that if I cannot give satisfaction to the gentleman himself, I may at least make answer to his Majesty for that act of your Lordship's, which is alledged to be very unusual unless upon some precedent misdemeanor of the party. Thus having in this point discharged my part in taking the best course I could that no complaint should come against you to the King, I rest

Your Lordship's faithful friend,

G. BUCKINGHAM.

Newmarket, the 16 of January, 1617.

[1] Harl. MSS. 7006. f. 62. Orig. Docketed by Meautys, "Jan. 16, 1617. The Marq. of Buckingm to your Lp. touching the restoring Sir John Cotton to be *Custos Rotulorum.*"

To Sir Henry Yelverton, Attorney General.[1]

Mr. Attorney,

Whereas there dependeth before me in Chancery a great cause of tithes concerning the benefices of London, though in a particular, yet by consequence leading to a general: His Majesty, out of his great and religious care of the state both of church and city, is graciously pleased that before any judicial sentence be pronounced in Chancery there be a commission directed unto me, the Lord Chancellor, the Lord Treasurer, the Lord Privy Seal, and the Lord Chamberlain, and likewise to the Lord Archbishop, the Lord Bishop of Winchester[2] and the Bishop of Ely:[3] and also to the Master of the Rolls[4], the two Lord Chief Justices,[5] Justice Dodderidge and Justice Hutton, who formerly assisted me in the cause, to treat of some concord in a reasonable moderation between the ministers and the mayor and the commonalty of London in the behalf of the citizens, and to make some pact and transaction between them by consent, if it may be, or otherwise to hear and certify their opinions touching the cause, that thereupon his Majesty may take such further order, by directing of a proceeding in Chancery or by some other course, as to his wisdom shall seem fit.

You will have care to draw the commission with some preface of honour to his Majesty, and likewise to insert in the beginning of the commission, that it was *de advisamento cancellarii* (as it was indeed) lest it should seem to be taken from the court. So I commit you to God's, etc.

Fr. Bacon, Canc.

January 19, 1617.

To the Marquis of Buckingham.[6]

My very good Lord,

I do not easily fail towards gentlemen of quality to disgrace them. For I take myself to have some interest in the good wills

[1] Gibson Papers, vol. viii. f. 90. Copy by Meautys.
[2] Dr. James Montagu. [3] Dr. Lancelot Andrewes. [4] Sir Julius Cæsar.
[5] Sir Henry Montagu of the King's Bench and Sir Henry Hobart of the Common Pleas.
[6] Gibson Papers, vol. viii. f. 91. Copy by Meautys. Docketed, "To the Marquis of Buckingham, concerning Sir John Cotton's resigning the place of *Custos Rotulorum* of Cambridgeshire."

of the gentlemen of England, which I keep and cherish for his Majesty's special service. And for this gentleman of whom you write, Sir John Cotton, I know no cause in the world why I should have displaced him but that it was certified unto me that it was his own desire to resign: wherein if I was abused, I will restore him. But if he did consent, and now it is done changeth his mind, then I would be loth to disgrace the other that is comen in.

Therefore I pray your Lordship that I may know and be informed from himself what passed touching his consent, and I will do him reason. Thus, with my thanks to your Lordship, I will ever rest,

Your Lordship's true friend,
and most devoted servant,
FR. BACON, Canc.

20 January, 1617.

TO THE LORD CHANCELLOR.[1]

My hoble Lord,

A servant of his M. to whom I wish very well hath acquainted me with a suit of his, for erecting an office for the making and copying of Commissions that go out of Chancery for examination of witnesses, which he allegeth will be no derogation either to the honour or profit of your Lp's place, but only lessen the gains of some who have more business (more properly belonging to their place than this) than they can well despatch: but rather an ease and safety to the subject in general. Yet in regard it belongeth to your Lp's Court, he forbeareth out of duty and respect unto your Lp. to move his M. herein, without first obtaining yor Lp's favourable approbation thereof; and hath desired me to recommend it unto your Lp. Which the more willingly I do in regard of his respective carriage to your Lp. therein, desiring you for my sake to shew him what favour your Lp. may, which I will not fail to acknowledge as done to myself. And will ever rest

Your Lops faithful servant,
G. BUCKINGHAM.

The party for whom I write is one of the grooms of his M. bedchamber.

Newmarket the 21
day of January,
1617.

[1] Tanner MSS. 74. f. 104. Orig. Docketed by Meautys, "Jan. 21, 1617. The Marqs of Buckm to yor Lp. touching a suit made for the erection of an office for the making of Commissions that go out of Chancery for examining witnesses."

To the Lord Chancellor.[1]

My honourable Lord,

I thank your lordship for your favour to Sir George Tipping, in giving liberty unto him to make his appearance before you after the holy-days, at my request; who (as I understand by some friends of mine who moved me to recommend him to your Lordship's favour) is willing to conform himself in performance of the decree made in the Chancery by your Lordship's predecessor, but that he is persuaded that presently upon the performance thereof his son will make away the land that shall be conveyed unto him, which being come to Sir George from his ancestors he desireth to preserve to his posterity. I desire your Lordship's farther favour therefore unto him, that you will find out some course how he may be exempted from that fear of the sale of his land, whereof he is ready to acknowledge a fine to his son and to his heirs by Anne Pigot, and they failing to his son's heirs males, and for want thereof to any of his son's or brethren's heirs males, and so to the heirs general of his father and himself by lineal descent, and the remainder to the crown. This offer, which seemeth very reasonable and for his Majesty's advantage, I desire your Lordship to take into your consideration, and to shew him what favour you may for my sake; which I will readily acknowledge, and ever rest

Your Lordship's faithful servant

G. Buckingham.

Newmarket, 23 of January, 1617.

To the Lord Chancellor.[2]

My honourable Lord,

Since I received your Lordship's letter, Sir Lionel Cranfield being here hath informed his Majesty of the whole proceeding in his business of the household; which his Majesty liketh very well, and is glad it is approved by your Lordship, of whose care and pains therein he receiveth very good satisfaction.

In the business touching Sir John Cotton,[3] your Lordship dealeth as nobly as can be desired; and so (if it should come in question before his Majesty) I would answer in your behalf. I leave Sir John Cotton to inform your Lordship by his letter of the passages of the business, and ever rest

Your Lordship's faithful servant,

Newmarket, Jan. 24, 1617. G. Buckingham.

5.

We have now seen a good many specimens of the letters written by Buckingham to Bacon in favour of suitors in his Court. I have

[1] Harl. MSS. 7006. f. 64. Orig. Docketed by Meautys, "Jan. 23, 1617. The Marq[s] of Buck[m] for yr. Lp. touching Sir George Tipping."

[2] Harl. MSS. 7006. f. 66. Original. Docketed by Meautys, "Jan. 24, 1617. The Marq. of Buck[m] to yr Lp. touching the business of the Household."

[3] See p. 290 and 292.

taken them as they came among the rest. I have given all that I know of up to this date. And as it appears by the dockets that the series has been carefully kept for Bacon's own use, I do not think it *likely* that there were ever many more. At any rate these are all that we have to judge by, so far: and each reader may decide for himself whether they afford reason for thinking that Buckingham—I will not say was in the habit of "dictating Bacon's decrees," which is absurd—but that he so much as *wished* him in any case to decide in favour of a party whom he thought in the wrong. I attach no weight to the qualifying clause. That instead of being used at first and omitted afterwards, according to Lord Campbell's original assertion, it was in fact used more uniformly afterwards than at first, was probably an accident. The recommendation was *meant* I think in all cases alike to be subject to the qualification. But how was it understood by Bacon himself? How did he deal with these recommendations; or how did he wish Buckingham to believe that he dealt with them? No attempt has ever been made to connect an unjust decree of his with one of these letters: and the manner in which he *professed* to deal with them may be gathered from the next letter. How Buckingham accepted the report will appear by his answer (31st January) a little further on.[1]

To the Marquis of Buckingham.[2]

My very good Lord,

I thought fit by this my private letter to your Lordship, to give you an account of such business as your Lordship hath recommended unto me, that you may perceive that I have taken that care of them I ought and ever shall in those you recommend or remit to me.

For the suit of the Alehouses which concerneth your brother Mr. Christopher Villiers, and Mr. Patrick Mawle, I have conferred with my Lord Chief Justice and Mr. Solicitor thereupon, and there is a scruple in it that it should be one of the grievances put down in Parliament; which if it be, I may not in my duty and love to you advise you to deal in it; if it be not, I will mould it in the best manner and help it forward. The stay is upon the search of the Clerk of the Parliament, who is out of town; but we have already found, that the last grievance *in 7mo*

[1] See p. 298.

[2] Stephens's first collection, p. 224. From the original. Reprinted in second collection, p. 73.

is not the same with this suit; but we doubt yet of another in 3*o*.

For the business of Mr. Leviston, for your Lordship's sake (who I perceive keeps your noble course with me, in acquainting me with these things) I shall apply myself unto you; though in my nature I do desire that those that serve in the court where I sit, though they be not in places of my gift, and so concerns not me nor my place in profit; yet I wish, I say, I mought leave them in as good case as I find them. And this suit concerneth the main profit of the Six Clerks; who though they be of the Master of the Rolls his gift, yet they serve in my court. But my greatest doubt is that the grant cannot be good in law; and that it is not like those other precedents, whereof I have received a note. For the difference is, where things have been written by all the clerks indifferently and loosely (in which case the King may draw them into an office) and where they have appertained to one especial office; in which case the King can no more take away the profits of a man's office, than he can the profits of his land. Therefore I think your Lordship may do well to write to Mr. Solicitor and Serjeant Finch, or some other lawyers that you trust, or such as Mr. Leviston trusteth, being persons of account, to inform you of the point in law, before you proceed any further: for without that all is in vain.

For the business of Hawkins, touching the register for the commission of Bankrupts; I am not yet satisfied likewise for the law, nor for the conveniency; but I rather incline to think it may pass: and I have set it in a course by which I may be throughly informed.

For Sir Rowland Egerton's cause, and his lady's, the parties have submitted themselves unto me, and are content to do it by bond, and therefore I will undoubtedly make an end of it according to justice and conscience.

For Sir Gilbert Houghton's business, I am in very good hope to effect your Lordship's desire for his good.

For Moor's business, concerning the printing of books, after hearing all parties I have sealed his patent; but for his former patent of Salt, I dare not do it without acquainting the Counci. therewith, which I am ready to do if he require that course to be taken.

If his Majesty at any time ask touching the Lord Clifton's

business, I pray your Lordship represent to his Majesty thus much, That whatsoever hath passed, I thank God I neither fear him nor hate him; but I am wonderful careful of the seat of justice, that they may still be well munited, being principal sinews of his Majesty's authority. Therefore the course will be (as I am advised) that for this heinous misprision (that the party, without all colour or shadow of cause, should threaten the life of his Judge, and of the highest Judge of the kingdom next his Majesty,) he be first examined, and if he confess it, then an *ore tenus*; if he confess it not, then an information in the Star-chamber, and he to remain where he is till the hearing. But I do purposely forbear yet to have him examined, till the decree or agreement between him and my Lord Aubigny (which is now ready) be perfected, lest it should seem an oppression by the terror of the one to beat him down in the other. Thus I ever rest

Your Lordship's true friend and devoted servant,

FR. BACON, Canc.

York-house, Jan. 25, 1617.

I pray your Lordship to pardon me, if in respect of a little watering in one of mine eyes, I have written this letter, being long and private business, in my secretary's hand.

Lord Clifton had been prosecuted in the Star Chamber for some misdemeanour, and condemned to pay a fine of 1000*l.* and to be imprisoned in the Fleet, where he behaved himself (says Chamberlain, writing on the 3rd of January) "so foolishly and insolently in traducing the justice of the land and threatening to kill the Lord Keeper, that on Tuesday he was called to the Council table and from that committed to the Tower."[1]

TO THE LORD CHANCELLOR.[2]

My honourable Lord,

I have been entreated by a gentleman whom I much respect to recommend to your Lordship's favour Mr. John Huddy, between whom and Mr. Richard Huddy there is, as I am informed, a cause to be heard before your Lordship in the Chancery on Saturday next. My desire unto your Lordship is, that you would shew the said John Huddy what

[1] S. P. Dom. vol. xcv. no. 5.

[2] Harl. MSS. 7006. f. 70. Orig. Docketed by Meautys, "Jan. 1617. The Marq. of Buck. to your Lp. touching a suit in Chancery between Huddy and Huddy."

favour you lawfully may and as his cause will bear when it cometh before you, for my sake. Which I will not fail to acknowledge, ever resting

Your Lordship's faithful servant,

G. BUCKINGHAM.

Newmarket, the 28 of Jan. 1617.

TO THE LORD CHANCELLOR.[1]

My honourable Lord,

I have received your Lordship's letters, wherein I see the continuance of your love and respect to me in any thing I write to you of, for which I give your Lordship many thanks, desiring nothing for any man but what you shall find just and convenient to pass. I am very glad to understand that there is so good hope of Sir Gilbert Houghton's business, which I must needs ascribe to your Lordship's great favour toward him for my sake, which I will ever acknowledge. If his Majesty at any time speak of the Lord Clifton's busines, I will answer according to that your Lordship hath written. I understand by Jack Butler how bountiful your Lordship hath been to him, for which I thank your Lordship, he being brother to my sister's husband, and besides I account your favour placed upon a thankful youth who speaketh of it to all his friends, which I take well in him that will not smother the benefits bestowed upon him.

I am sorry your Lordship maketh an apology for using the liberty (upon such a necessary occasion) of another's hand, which I so often take by reason of my little leisure, and desire your Lordship hereafter to spare yourself more, without tying yourself to that ceremony which I so little observe.

I send back unto your Lordship the Commission for the Court Martial signed by his Majesty, who hath (God be thanked) had a better day of this than any since his pain began, and purposeth this afternoon to take some air abroad, and I hope will be very well able at his return to take the contentment of the Mask, whereof I have signified your care unto him. And so I rest

Your Lordship's faithful servant,

G. BUCKINGHAM.

Newmarket, the
last of January,
1717.

The "mask" was most likely an entertainment to be presented by Gray's Inn. We learn from Chamberlain that on Candlemas Day Bacon "dined at Gray's Inn to give countenance to their Lord

[1] Harl. MSS. 7006. Docketed by Meautys, "Jan. 30, 1607. The Marq. of Buck^m to y^r Lp. of thanks for your favour to Mr. Butler your servant and other particulars."

and Prince of Purpoole, and to see their revels."[1] And a mask appears to have been in preparation for Shrove Tuesday, though it could not be performed till Thursday, owing to the occupation of the Banqueting hall by an improved edition of the "Prince's Mask"—a piece of Ben Jonson's which had been acted on Twelfth night with little applause.[2] "On Thursday night," says Chamberlain, "the gentlemen of Gray's Inn came to the court with their show, for I cannot call it a masque, seeing they were not disguised, nor had vizards. For the rest, their fashion and device were well approved, though it were thought to be somewhat out of season to revel in Lent."[3]

TO THE LORD CHANCELLOR.[4]

My honourable Lord,

I understand that his Majesty hath been pleased to refer a suit unto him by two of his servants, Robert Maxwell and John Hunt, for the making of sheriffs and escheators patents, to your Lordship's consideration. My desire unto your Lordship in their behalf is, that you would shew them thus much favour for my sake, as with as much expedition as may be and your Lordship's other occasions may permit, to certify your opinion thereof unto his Majesty; which I will be ready to acknowledge, and ever rest

Your Lordship's faithful servant,

G. BUCKINGHAM.

Newmarket, the 4 day of February, 1617.

TO THE LORD CHANCELLOR.[5]

My honourable Lord,

Though I had resolved not to write to your Lordship in any matter between party and party,[6] yet at the earnest request of my noble friend the Lord Norris, to whom I account myself much beholden, I could not but recommend unto your Lordship's favour a special friend of his, Sir Thomas Monk, who hath a suit before your Lordship in the chancery

[1] Chamberlain to Carleton, 7 Feb. 1617-8.

[2] "The Masque on Twelfth Night is not commended of any. The poet is grown so dull that his device is not worth the relating, much less the copying out. Divers think fit he should return to his old trade of bricklaying again." Nathanael Brent to Sir D. Carleton 10 Jan. 1617.

[3] Court and Times of James I. vol. ii. p. 66.

[4] Harl. MSS. 7006. f. 74. Orig. Docketed by Meautys, "4 Feb. 1617. The Marq[s] of Buck[m] to y[r] Lp. touching Maxwell's suit."

[5] Harl. MSS. 7006. f. 76. Orig. Docketed by Meautys, "4 Feb. 1617. The Lord Marq. of Buck[m] to y[r] Lp. in the behalf of Sir Thomas Monk."

[6] This is another passage which agrees very well with the supposition that Bacon had taken some occasion to remind Buckingham of the inconvenience of this practice of writing letters in favour of parties. It does not prove that he had, but I think it should at least forbid us to *assume* that he had not.

with Sir Robert Basset; which upon the report made unto me thereof seemeth so reasonable, that I doubt not that the cause itself will move your Lordship to favour him, if upon the hearing thereof it shall appear the same unto your Lordship, as at the first sight it doth unto me. I therefore desire your Lordship to shew in this particular what favour you lawfully may for my sake, who will account it as done unto myself: and will ever rest

Your Lordship's faithful servant,

G. BUCKINGHAM.

Newmarket, the 4 day of Feb. 1617.

6.

The next letters relate to a more important performance.

To THE MARQUIS OF BUCKINGHAM.[1]

My very good Lord,

I have sent inclosed a letter to his Majesty about the public charge I am to give the last Star-Chamber day, which is this day sevennight, to the Judges and Justices before the Circuits. I pray deliver it to his Majesty with speed. I send also some papers appertaining to that business, which I pray your Lordship to have in readiness if his Majesty call for them. I ever rest

Your Lordship's true friend,
and devoted servant,

FR. BACON, C.

Feb. 6° 1617.

To THE KING.[2]

It may please your most excellent Majesty,

Finding as well by your Majesty's dispatches and directions to your Council, as now by speech with Mr. Secretary Laque, that your Majesty is content to be troubled with business of sundry natures; I thought good, according to the duty of my place and the necessity of the occasion, to put your Majesty in mind that on this day sennight, being Friday in the morning,

[1] Gibson Papers, vol. viii. f. 92. Copy. Docketed, "The copy of a letter to the Lo. Marquis of Buck. with a letter to his M. enclosed, concerning the charge that is to be given to the Judges before their circuits, with some other papers touching that business."

[2] Stephens's first collection, p. 227. From the original. Reprinted in second collection, p. 76.

I am according to custom to give a charge and admonition to the Judges and Justices of peace now before the Circuits; wherein I am humbly to crave your Majesty's pleasure and directions.

I have for your Majesty's better ease set down the heads, which by the prescript of your book, and out of the consideration of the present times, I have thought fittest to be remembered. I have also sent your Majesty the last account of the Judges' Circuits, not to trouble you with the reading of them all; but to the end that if upon my memorial, or otherwise out of your Majesty's own memory, which is above memorials, you should have occasion to resort to those accounts, the papers may be by you.

The point of greatest weight in my opinion, is the carrying of a balanced hand at this time in the matter of Recusants, in regard of the treaty with Spain. For it were good in respect of your people, that there were no note made that the string is relaxed, and in respect of the treaty, that it is not strained; and therefore that the proceeding in those causes be rather diligent than severe.

I am wonderful glad to hear that this extremity of weather, which I think the Muscovite hath brought with him, hath not touched your Majesty, whose health and ease is far dearer to me than my life with all the appurtenances. God ever preserve and prosper you.

Your Majesty's most faithful
and most obliged servant,
FR. BACON, Canc.

This Friday morning, the sixth of February, 1617.

Your Majesty will be pleased your answer be with me on Thursday at noon, or soon after it.

THE GRACING OF THE JUSTICES OF PEACE.[1]

That your M. doth hold the institution of Conservators and Commissioners or Justices of the peace, to be one of the most laudable and politic ordinances of this realm or any other realm.

That it is not your own goodness or virtues, nor the labours

[1] Add[l] MSS. 19402. f. 107. Original, own hand. No date, docket, or superscription.

of your counsel or Judges, that can make your people happy, without things go well amongst the Justices, who are the conduits to convey the happy streams of your government to your people.

That your M. would as soon advance and call a knight or gentleman, that liveth in an honourable and worthy fashion in his country; and it were to be of your council; or to office about yourself, your Queen, or son; as an ambassador employed in foreign parts, or a courtier bred and attendant about your person.

That your M. is and will be careful to understand the country as well as your Court for persons, and that those that are worthy servants in the country shall not need to have their dependance upon any the greatest subject in your kingdom, but immediately upon yourself.[1]

To the Lord Chancellor.[2]

My honourable Lord,

I have acquainted his Majesty with your letter to me and have delivered likewise to him the letter and other things directed to his Majesty, who hath commanded me to return this answer to them all. First for your memorial of your charge to the Judges,[3] he liketh it so well that he findeth nothing either to be added or diminished, and was so well satisfied therewith that he accounted it needless to read the other papers but sealed them up again and sendeth them back again to your Lordship without reading them. Only in the point of Recusants his Majesty is of the quite contrary opinion to you. For though he would not by any means have a more severe course held than his laws appoint in that case, yet seeth he many reasons why there should be no mitigation above that which his laws have enacted and his own conscience telleth him to be fit. As first, the papists in his kingdom have taken such heart upon the commission given to Sir John Digby touching the match with Spain, that they have sent copies thereof privately up and down, and are so lifted up in their hopes of what they desire, that his Majesty cannot but take a more severe course (as far as by his laws he may) than hitherto he hath done. Besides, when they shall see a harder hand carried toward them than hath been accustomed, his Majesty assureth himself they will employ all their means to further the match, in hope of mitigation of that

[1] This comes to the bottom of the first page: but as the other side of the leaf is blank, I conclude that there was no more of it. It is very fairly written.

[2] Harl. MSS. 7006. Original. Docketed by Meautys, "Feb. 8. 1617. My Lo. of Buck. to y^r Lp. in answer of y^r Lp's. letter touching the charge to be given by y^r Lp. in the Star Chamber."

[3] There was probably another enclosure besides the paper entitled "The Gracing of the Justices of the Peace."

severity when it shall be accomplished. And though these reasons were not, his Majesty would account it a baseness in a prince to shew such a desire of the match as to slack anything in his course of government, much more in propagation of the religion he professeth, for fear of giving hindrance to the match thereby.

For the matter whereof yo Lop and my lo:, of Worcester have written unto me touching Sir Rob. Floud, I have omitted no part of my duty to her Maty's service. And you will perceive by the letter Mr. Secretary Naunton writeth in his Maty's name, how careful his Maty is to right her. And so with many thanks for your favours to my brother in his business, I rest

Your lordship's faithful servant,

Newmarket, 8 Feb. 1617. G. BUCKINGHAM.

TO THE LORD CHANCELLOR.[1]

My honourable Lord,

I understand by this bearer, Edward Hawkins, how great pains your Lordship hath taken in the business which I recommended to you concerning him,[2] and how favourably your Lordship hath used him for my sake. For which I give your Lordship many thanks, and will be ever ready to acknowledge your favour toward him by all the testimonies of

Your Lordship's faithful friend,

Theobalds, the 12 of February, 1617. G. BUCKINGHAM.

THE LORD CHANCELLOR'S SPEECH IN THE STARCHAMBER, 13° FEBRUARII 1617.[3]

The King's Maty doth always wait on and watch over his people, and although he cannot be here present in person, yet he hath been graciously pleased to assist me in his royal direction to speak unto you at this time; and his book will be a direction hereafter for Lord Chancellors of all ages to speak by; but before I come to speak of his direction, let me use a few words unto you of my own. I cannot behold this honourable assembly of Lords Judges and Justices of peace, but I am thereby carried into a consideration of both those institutions of Justices of Assize and Justice of peace; the one coming in place of Jus-

[1] Harl. MSS. 7006. f. 82. Orig. Docketed by Meautys, "12 Feb. 1617. The Marq[s] of Bucking[m] to y[r] Lp. touching Mr. Hawkins's suit."

[2] See letter to Buckingham 25 Jan. 1617, p. 295.

[3] Harl. MSS. 1576. f. 91. Copy in the hand of some copyist: apparently from some report. Not called a 'Note,' as the previous speech 10 Jul. 1617. f. 82. This is evidently the speech of which a "memorial" was enclosed in Bacon's letter to the King of 6 Feb. (See p. 300.) "The Gracing of the Justices of the Peace" may have been the beginning of a paper for the same purpose, which was not completed.

tices Itinerants, and the other in place of conservators of the peace, which were more ancient. And there is no practice or memory of any better institution for the administration of justice than these two. For first, the Judges which go in circuits, they go into all parts; but where there are seats certain, there certain territories must be allotted for jurisdiction, and justice must be fetched up the hill: and if there were a King's Bench at Exeter, then all those parts must go thither; and so in other places the like; but the 6 circuits of England are like the four rivers in Paradise, they go to water the whole kingdom, and pass through the whole land to the distributing of justice for a man's life, his goods and his freehold, and do justice from the greatest to the groom: Secondly, where justice is local and not itinerant, there the Judges are subject to be affected and infected with the conditions and humours of the country where they are; but Justices itinerant in their circuits, they preserve the laws pure, and are not led by affections: Thirdly, this manner of Justices itinerants carrieth with it the majesty of the King to the people and the love of the people to the King; for the Judges in their circuits are sent *a latere Regis* to feel the pulse of the subject and to cure his disease: Fourthly, it makes government more united in itself; for the Judges at their return meet at Sergeant's Inn, and there they make up their accounts, and then they relate their proceedings to the King and his Chancellor, and so make it all one piece.

And as for the second institution, that is of Justices of peace, it knits noblemen and gentlemen together, and in no place else but here in England are noblemen and gentlemen incorporated: for abroad in other countries noblemen meddle not with any parcel of justice but in martial affairs: matter of justice, that belongs to the gown-men; and this is it that makes those noblemen the more ignorant and the more oppressors: but here amongst us they are incorporated with those that execute justice, and so being warriors are likewise made instruments for peace; and that makes them truly noble: another point is that the Commission of Oyer and Terminer doth knit the noblemen, and those that are *minores nobiles*, knights and other, in one commission: and in this they are alike, though otherwise there is much difference betwixt them. And this makes the noblemen here modest, and the knights and gentlemen well spirited;

besides it knits government elsewhere with the government of corporations, and puts them together: for else this monarchy would have the corporation in it, like unto the cities of Holland.

And lastly by this institution those that have voices in Parliament to make laws, they for the most part are those which in the country are appointed to administer the same laws: and for these two institutions, if a man would make a commonwealth by a level he could not find better than these: And this partly I have gathered out of mine own observation and books which I have read; and I have read my leaf; and partly out of the conference which I have had with the King's Ma^{ty}; and my admonition is that these no manner of way be perverted by the use of them: and whilst I sit in authority under his Ma^{ty}, Judges and Justices shall flourish by me.

Now for the King's particular command: First to you the Judges, it is thus: He hath perused your accounts both of your Lent Circuits whilst he was in Scotland, and your summer Circuits also: and he approves your cares and labours to be such as do meet with his instructions, and for that he gives you princely thanks: But he desires that in some things you would not be so indefinite as you are, but more full: and that is first in your certificates of the decrease and increase of Recusants, and he would have you to certify the quantity of the increase of them, in what corners and where their nests are, and where it is that they do abound. And for the houses of correction that are not kept as they ought, he desires to know where the default is, to the end that these things might not end in his ear but in his head: and so likewise for high-ways: and one other thing else, he would have you to distinguish your accounts of Justice of peace by names. Moreover he hath commanded me and you by me to take notice with what exceptions he hath determined to regulate his commission, and that is as followeth:

1. That none that is outlawed after judgment shall be a Justice of peace.

2. That none shall be a Justice of peace whose wife is a recusant.

3. That none that have been censured in this Court, or in any of his Ma$^{ty's}$ Courts of Westminster, for any crime or ignominy, shall be a Justice of peace unless he obtain special leave from the King.

4. That none shall be a Justice of peace unless he hath a competent living, unless it be some sages of the law.

5. That none shall be a Justice of peace unless he be yearly resident nine months in the country, and attend the assizes and sessions.

6. That none shall be a Justice of peace unless when he hath procured a *Dedimus potestatem* to take his oath it be found that he be sworn.

Now for you that are Justices of peace; first, when letters come to you from the Lords of the Council, his M. would have you to observe and perform them, and not dispute them.

Secondly, he would not have you to be factious, for he saith that is tyrannical, and if he would be a tyrant he would love faction. And herein I shall remember you of that which I said the last time unto you; such as they are shall have Cicero's punishment: *Qui turbant otium eos otiosos reddam:* They shall be put forth of the commission of the peace.

Thirdly, he would not have you seek greatness in bearing matters of justice by wilfulness, but let them[1] seek greatness in sincerity and integrity.

Fourthly, he would have you diligent in giving your accounts to the Judges of assize [of][2] those things which he hath given you in charge and which they shall give you likewise in charge: and so much in the general for both particulars.

Further, the King begins with the Church: first he would have the weekly payment for Recusants duly put in execution, finding that it works more effect upon the poorer sort of Recusants than the monthly penalty does on others. Secondly, he would have the well begun course by a sergeant at law of binding Recusants to the good behaviour in the King's Bench, be observed for the reformation of them, not for the increase of officers' fees. Thirdly, for those that are no Recusants themselves, but as he terms them[3] for Recusants about them they have a great smell of Recusants, these he would have punctually returned. Fourthly, for Priests he refers you to your former direction, and from that he doth not vary. And lastly, because spiritual diseases must be cured by spiritual medicines, he wills

[1] So in MS. [2] The MS. omits 'of,' and puts a semicolon after 'assize.
[3] So in MS. Qu. 'it.'

you to countenance all good preaching and preachers, not such as are factious and turbulent; and we shall find better effect come by preaching than by law; and *gladius gladium vincet.*[1] The next point is the intolerable number of ale-houses, and his M. saith he thinketh he shall be fain to have the recognizances concerning them certified into the Exchequer, because there is no better order taken for them at the Sessions. A branch of this is your dry tobacco houses, and those that sell hot waters, the one of them brought from the wild Irish, and the other from the wild Indies. And now summer is coming on, and when summer comes then the flies will swarm, vagabonds and such like. Therefore for these he would have the houses of Correction well looked unto, and the provost marshall cared for, and for the punishment of these rogues the King is so positive that unless care be had for the support[2] of them by the Justices he will lay the charge upon the Justices for the maintenance of them. The next matter is the observation of Lent, not for any superstitious respect, but partly to abstain from flesh for the pulling down of our flesh, as also for the better increase of young cattle, and the observation hereof is the Castor and Pollux for navigators, and therefore his M. would have also governors of families, officers, and governors of the Inns of Court to look to this. As for bridges and high-ways, I touched that in the general; and he would have you thereto add the care of preserving of the sea-walls and banks, which albeit it belongeth unto the Commission of Sewers, yet he would have you to listen and be careful thereof also. And another matter there is, and that is how there is a rising of robberies more now than in former times was wont: and there are two causes hereof; the one is that men are too loose in taking of the committers of them, and the other is they are negligent in suffering them to go away; for now hue and cries are of no consequence, only a little paper is sent up and down with a soft pace, whereas they should be prosecuted with horse and foot, and hunted[3] as a thief. For the rest the King refers you to his book, where he says he thinks when he peruseth it he shall find that he hath omitted much of that which [he][4] would have set down in it; and I have omitted much of that which he gave me in charge to deliver unto you.

[1] *viuat* in MS. [2] So in MS. Qu. *suppression?* [3] *haunted* in MS.
[4] The MS. omits 'he.'

7.

It seems that the case of Lord Clifton remained all this time undisposed of, he being still in the Tower. The cause of the delay was, I presume, the same which at the end of January induced Bacon to postpone his examination. The terms of an agreement between him and Lord Aubigny were under reference to the Lord Chancellor, and a decree was about to be pronounced. Until the terms had been agreed upon, it was not thought right to threaten him with a criminal charge. The case being now (as I suppose) settled, the Master of the Rolls and the Attorney General had received directions from the Council to examine him; when a message was brought from the King which the next letter will explain.

To the Marquis of Buckingham.[1]

My very good Lord,

Mr. Chancellor of the Exchequer hath signified to me this day, that yesterday his Majesty called him to his coach, and said to him that one that had used ill speech of me should be called before me and make his submission to me; and thereupon be called before the Council, and receive a sharp reprehension, and so be inlarged. And Mr. Chancellor could not tell me who the person was, but after by some letter he received from my Lord Clifton, and speech with a man of his, he perceived it was he.

I pray your Lordship in humbleness to let his Majesty know that I little fear the Lord Clifton, but I much fear the example, that it will animate Ruffins and Rodomonti extremely against the seats of justice (which are his Majesty's own seats) yea and against all authority and greatness, if this pass without public censure and example; it having gone already so far as that the person of a Baron hath been committed to the Tower. The punishment it may please his Majesty to remit, and I shall not formally but heartily intercede for him, but an example (setting myself aside) I wish, for terror of persons that may be more dangerous than he, towards the least Judge of this kingdom.

Therefore it may please his Majesty to speak of it with myself and my Lords when he cometh next, and in the mean time I will command from his Majesty, the Master of the Rolls and

[1] Stephens's first collection, p. 228. From the original. Second collection, p. 79.

Mr. Attorney, who were appointed by the Table to examine him, to stay. God ever prosper you.

Your Lordship's true friend
and devoted servant,
FR. BACON, Canc.

17 March, 1617.

TO THE LORD CHANCELLOR.[1]

My honourable Lord,

I have acquainted his Majesty with your letter, who liketh well of the course you mention in the end of your letter, and will speak with you further of it at his return to London. In the mean time he would have your Lordship give direction to the Master of the Rolls and Mr. Attorney to stay the examination. And so I rest

Your lordship's most assured to do you service,
G. BUCKINGHAM.

Hampton-Court, this 18 of March, 1617.

What was done further in the matter, the correspondence does not explain. But I gather that he was set free: for on the 5th of October, 1618, Lake writes to Sir Thomas Puckering, "This day was fatal to my Lord Clifton, who at his lodgings in Holborn stabbed and murdered himself."[2]

[1] Harl. MSS. 7006. f. 83. orig. Docketed "19° Martii. My Lord of Buck. to yr Lp. for putting off the Ld. Clifton's examination."

[2] Court and Times of James I. vol. ii. p. 91. Camden gives the month-date only. "Octob. . . . *Gervasius Baro Clifton sibi manus intulit.*" Annalium apparatus, p. 37.

CHAPTER VII.

A.D. 1618. APRIL–DECEMBER. ÆTAT. 58.

1.

THE spring of 1618 was remarkable for unusually bad weather, and an unusual want of interesting events for news writers. For the weather, it was observed that during the whole of April "not a day had passed but that within the compass of 12 hours there had been either rain, hail, snow, or frost." And for news, it was noted that a race from St. Albans to Clerkenwell between two men on foot had interest enough, though run on a very "sour and foul" day, to bring out all the fashionable world to witness it. "All the Court, in a manner, Lords and Ladies, some further off some nearer, went to see this race, and the King himself almost as far as Barnet . . . insomuch that it was verily thought that there were as many people as at the King's first coming to London."[1] Events of great importance were on their way, but for the present the surface of affairs in England was very tranquil.

Two short letters in answer to communications from Ireland of no recent date serve to remind us that Bacon continued to watch the course of affairs there with interest.

TO THE LORD CHANCELLOR OF IRELAND.[2]

My Lord Chancellor,

I will not have you account the days of my not answering your letter. It is a thing imposed upon the[3] multitude of my business to lodge many things faithfully, though I make no pre-

[1] Chamberlain to Carleton, 10th April, 1618.

[2] Gibson Papers, vol. viii. f. 93. Copy. No docket. The Lord Chancellor was Dr. Thomas Jones, Archbishop of Dublin, who died April 10, 1619. (Note by Birch.)

[3] So in the copy. I suppose it should be "imposed upon me by the" etc.

sent return. Your conjunction and good understanding with the Deputy[1] I approve and commend; for I ever loved intire and good compositions, which was the old physic, better than fine separations.

Your friendly attributes to me I take as effects of affection; which must be causes of any good office wherewith I can requite you.

We conceive that kingdom is in growth. God send soundness to the increase; wherein I doubt not but your Lordship will do your part. God keep you

Your Lordship's very loving friend,

FR. BACON, Canc.

York-house, 15 April 1618.

TO THE LORD CHIEF JUSTICE OF IRELAND.[2]

My Lord Chief Justice,

I thank you for your letter,[3] and assure you that you are not deceived, neither in the care I have of the public in that state, nor in my good wishes and the effects thereof, when it shall lie in my power towards yourself. I am glad to receive your testimony of my Lord Deputy, both because I esteem your judgment, and because it concurreth with my own. The materials of that kingdom, which is trade and wealth, grow on apace. I hope the form, which giveth the best living of religion and justice, will not be behind; the rather by you, as a good instrument. I rest

Your Lordship's assured friend,

FR. BACON, Canc.

York-house * * * of April, 1618.[4]

About this time we hear of Bacon going "in all his pomp" to hear the Archbishop of Spalato preach at Mercer's chapel: "which

[1] Sir Oliver St. John, afterwards Viscount Grandison. He died at Battersea in Surrey, December 29, 1630, aged seventy. (Note by Birch.)

[2] Gibson Papers, vol. viii. f. 94. Copy. No docket.

[3] In Stephens's catalogue (Birch MSS. 4259) I find among the letters addressed to Bacon the following entry, under date 30 Nov. 1617. "'I crave pardon'—an account of the state of Ireland—Sir Will. Jones." Sir William had been appointed Chief Justice in May, 1617. See Ch. IV. § 9.

[4] Date omitted. The letter seems to have been copied in a hurry.

was not so strange," adds the reporter, "as not a month since to see him in the same state go to Sir Baptist Hickes's and Barnes's shops to cheapen and buy silks and velvets."[1] As it is not said that this was his ordinary practice, we may suppose that he found it convenient on that occasion to take them in his way from his Court.

Buckingham's bad habit of writing letters in favour of parties having suits in Chancery was not discontinued; as will be seen by those which follow; but I do not perceive in them any evidence of a desire to *interfere*, more or otherwise than in those which we have seen already. And Bacon had at this time a fresh reminder that his place did not raise him above criticism. A suitor who felt aggrieved with one of his orders, complained of him to the King in an elaborate pamphlet, as having cancelled two decrees made by his predecessor, without cause, without matter, without any legal proceedings, without precedent, upon the party's bare suggestions, and without calling him to answer.[2] The style of the complaint was thought by the King a fit subject for censure in the Star-chamber; where the complainant was heard at large, in Bacon's absence, and failing to justify his language, was sentenced by Coke (who as the last appointed councillor spoke first—and with whom all the rest agreed) to be punished according to a precedent made while he was himself Attorney General. The sentence, as we learn from Chamberlain (5 May 1618), was severe;—to be imprisoned, to pay a fine of £1000, to ride with his face to the horse's tail, and to lose his ears. "Which, though at first sight" he says "it may seem a hard sentence, yet upon the matter he deserved somewhat: and there is hope it was rather *in terrorem* than to be put in execution."

To the Lord Chancellor.[3]

My honourable Lord,

Understanding that there is a suit depending before your Lordship between Sir Rowland Cotton plaintiff and Sir John Gawen defendant, which is shortly to come to a hearing, and having been likewise informed that Sir Rowland Cotton hath undertaken it in the behalf of certain poor people; which charitable endeavour of his I assure myself will find so good acceptation with your Lordship that there shall be no other use of recommendation: yet at the earnest request of some friends of mine I have thought fit to write to your Lordship in his behalf, desiring you to

[1] Chamberlain to Carleton, 20 April, 1618. S. P. vol. xcvii. no. 33.

[2] See Yelverton's speech, in a full report of the case printed in Blackbourne's edition, vol. i. p. 104.

[3] Harl. MSS. 7006. f. 85. Orig. Docketed by Meautys, "The Marq. of Bucking^m^ to your Lp. in the behalf of Sir Rowland Cotton."

shew him what favour you lawfully may and the cause may bear, in the speedy dispatch of his business; which I shall be ever ready to acknowledge, and rest

Your Lordship's most devoted to serve you,

G. BUCKINGHAM.

Whitehall, the 20 day of April, 1618.

TO THE LORD CHANCELLOR.[1]

My honourable Lord,

I will not go about to excuse mine own fault by making you believe his Majesty was backward in your business; but upon the first motion he gave me directions for it, which it was my negligence (as I freely confess) that I have no sooner performed, having not been slack in moving his Majesty, but in dispatching your man. All is done which your Lordship desired, and I will give order according to his Majesty's directions, so that your Lordship shall not need to trouble yourself any farther, but only to expect the speedy performance of his Majesty's gracious pleasure.

I will take the first opportunity to acquaint his Majesty with the other business,[2] and will ever rest

Your lordship's faithful friend and servant,

G. BUCKINGHAM.

Theobalds, the 8 of May.

TO THE LORD CHANCELLOR.[3]

My honourable good Lord,

Whereas in Mr. Hansbye's cause, which formerly by my means both his Majesty and myself recommended to your Lordship's favour, your Lordship thought good upon a hearing thereof to decree some part for the young gentleman, and to refer to some masters of the chancery (for your farther satisfaction) the examination of witnesses to this point, which seemed to your Lordship to be the main thing your Lordship doubted of, whether or no the leases conveyed by old Hansbye to young Hansbye by deed were to be liable to the legacies which he gave by will, and that now I am credibly informed that it will appear upon their report and by the depositions of witnesses without all exception that the said leases are no way liable to those legacies; these shall be earnestly to intreat your Lordship that upon consideration of the report of the masters and depositions of the witnesses you will for my sake shew as much favour and expedition to young Mr. Hansbye in this cause as the justness thereof will

[1] Harl. MSS. 7006. f. 87. No year-date. Docketed by Meautys, "My Lo. of Buckingm to my Lo."

[2] I do not know what the businesses were to which this letter refers.

[3] Harl. MSS. 7006. f. 89. Docketed by Meautys, "12 Junii, 1618, The Ear of Buckingm to your Lp. in the behalf of one Mr. Hansbye."

permit. And I shall receive it at your Lordship's hands as a particular favour.

So I take my leave of your Lordship, and rest

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Greenwich, the 12 of June, 1618.

TO THE LORD CHANCELLOR.[1]

My honourable Lord,

Understanding that the cause depending in the Chancery between the lady Vernon and the officers of his Majesty's household is now ready for a decree, though I doubt not but as his Majesty hath been satisfied of the equity of the cause on his officers' behalf, who have undergone the business by his Majesty's command, your Lordship will also find their cause worthy of your favour: yet I have thought fit once again to recommend it to your Lordship, desiring you to give them a speedy end of it, that both his Majesty may be freed from farther importunity, and they from the charge and trouble of following it: which I will be ever ready to acknowledge as a favour done unto myself, and always rest

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Greenwich, the 15 day of June, 1618.

TO THE LORD CHANCELLOR.[2]

My honoured Lord,

I writ unto your Lordship lately in the behalf of Sir Rowland Cotton, that then had a suit in dependence before your Lordship and the rest of my Lords in the Star-Chamber. The cause I understand hath gone contrary to his expectation, yet he acknowledges himself much bound to your Lordship for the noble and patient hearing he did then receive, and he rests satisfied, and I much beholding to your Lordship for any favour it pleased your Lordship to afford him for my cause. It now rests only in your Lordship's power for the assessing of costs, which because I am certainly informed Sir Rowland Cotton had just cause of complaint, I hope your Lordship will not give any against him. And I do the rather move your Lordship to respect him in it, because it concerns him in his reputation, which I know he tenders, and not the money which might be imposed upon him, which can be but a trifle. Thus presuming of your Lordship's favour herein, which I shall be ready ever to account to your Lordship for, I rest

Your Lordship's most devoted to serve you,

G. BUCKINGHAM.

June 29, 1618.

[1] Harl. MSS. 7006. f. 91. Orig. Docketed, by the other secretary, "15 Jun. 1618. My Lo. Marq[s] of Buck. to yo[r] Lp. on the behalf of the officers of the household in a cause depending between them and the Lady Vernon."

[2] Ibid. f. 93. Orig. Docketed by Meautys, "29 June, 1618. My Lo. Marq[s] of Buck[m] to yo[r] Lp. on the behalf of Sir Rowland Cotton."

2.

On the 26th of June the invincible Countess of Shrewsbury was again brought before the Star-chamber upon a charge similar to that which she had been called to answer six years before.[1] There was a rumour abroad that the Lady Arabella had left a child. The Countess was thereupon sent for and interrogated. Refusing to answer, she was committed to the Tower for contempt. And now being brought before the Star-chamber she maintained her resolution in face of the Court, pleading a vow formerly made not to answer any article touching the Lady Arabella. For this she was sentenced to pay a fine of £20,000 and to be imprisoned until she should acknowledge her offence and submit. In a report of the proceedings which is to be seen among the State Papers,[2] the substance of the several sentences is given in order. Of Bacon's, which came last, I find the following note.

LORD CHANCELLOR.

I am sorry for the Lady. Her offence is against the law, and her allegiance is subject to fine and ransom.[3]

All subjects owe to their King duty { of covenant — allegiance; of counsel — for advice; of testimony — for discovery }

Take away these, and you pull out the King's eyes.

Five circumstances that aggravate the offence.

1. The person, eminent, of excellent wit and temper, therefore the greater in example.

2. The occasion, the rumour of the La. Arabella's having a child.

3. The generality of her vow, a grief to the sovereign, an offence to God. If there should be a conspiracy against the King or state, she will not answer. This draws suspicion.

4. Relapse. She committed the like offence before, and falls in to it again.

5. A dumb spirit, which must be cast out. He agrees in all things with the former censures.

It seems that she remained inexorable. For I find that in the following August the King sent Coke with the Attorney and

[1] See Vol. IV. p. 296. [2] S. P. Dom. vol. xcvii. no. 126. [3] So in MS.

Solicitor-General to offer her the oath of allegiance, which she absolutely refused.[1]

On the same day Bacon delivered his charge to the Judges before the Summer Circuits; of which we are indebted to Sir Julius Cæsar, for the following note; a note however set down not for our information, but only for the assistance of his own memory.

26 JUNE, 1618.

STAR-CHAMBER. MY L. CHANCELLOR'S SPEECH TO THE JUDGES.[2]

Who can go before the King, or who can follow the King.

The K. liketh the last certificate of the Judges, and imputeth the quiet of the kingdom much to the Judges' care.

Old precepts to be refreshed with new.

A Jove principium.

1. Recusants the ill-affected disease of this kingdom; not increased of late.

Non progredi est regredi; remitteth them to the printed book.

New opinions spread very dangerous, the late Traske a dangerous person.[3] Prentices learn the Hebrew tongue.

2. Poverty beggars and vagabonds, house them or hunt them, or employ them in work.

2000 prentices bound in Norfolk.

Cherish manufactures, old and new; especially draperies.

3. Ale houses, nuisances of manners, drinking intolerably at the Assizes. Clerk of the peace and market do not look to the assises of beer and bread.

4. Mending the highways, gulling (?) carriages with 4 wheels. 9 or 10 horses in a cart. Things to be reduced to the old proportion. None to go with more than 5 or 6 horses in a cart.

5. Buildings in the city and about, not to be fed with meat, nor cleansed by sewers, nor kept from sickness. The remedy to pull down the houses, and those of the rich first, and those of the poorest after.

[1] Chamberlain to Carleton, 13 Aug. 1618.

[2] Lansd. MSS. 160. f. 331. In Sir Jul. Cæsar's hand.

[3] "Here is one Thraske, who was first a Puritan, then a Separatist, and now is become a Jewish Christian, observing the Sabbath on a Saturday, abstaining from swine's flesh and all things commanded in the law. You will not think what a number of foolish followers he hath in this town, and some other parts, and yet he hath not been long of this opinion. He and divers of them are in prison, but continue obstinate; whereby a man may see there can arise no such absurd opinion but shall find followers and disciples." Chamberlain to Carleton, 14 Feb. 1617–18.

3.

On the 12th of July, 1618, Bacon was created Baron Verulam of Verulam. Whether this justifies us in styling him "Baron of Verulam" (as has been commonly done for the last two hundred years wherever his titles are enumerated) is a disputable question,[1] but not one in which his own reputation is interested. He never used that addition himself, but styled himself, if writing English, "Francis Lord Verulam;" if writing Latin, "Franciscus de Verulamio:" and it was doubtless as Verulam, or Lord Verulam, that he expected the next ages to know him and speak of him. I think everybody who has been concerned with him as editor or biographer must agree with me in regretting that the next ages did not take the hint. Being invited to call him by a name as handsome in sound and associations as any that England could have furnished, they have fixed upon him one of the ugliest and most vulgar; a name associated chiefly with the poorest kind of joke (and quite as much so since he bore it as before), and so common-place, that in order to make it serve the purpose of distinguishing him from the rest of his surname at all, they have been obliged to invest it with a title to which it never had any pretence. An attempt has indeed been made of late to justify the title of "*Lord* Bacon" by the analogy of "Lord Coke," "Lord Hale," and others. And it is true that *chief justices* retained in popular speech the prefix of "Lord," though never made Peers. But this practice did not extend to the Judges in Chancery. Sir Thomas More was Lord Chancellor More, but was never called Lord More. Sir Nicholas Bacon was Lord Keeper Bacon, but was never called Lord Bacon. And so through all the list of Lord Keepers, Lord Chancellors, and Masters of the Rolls. Francis Bacon is the only one who even in popular speech ever bore the prefix of 'Lord,' otherwise than in conjunction with the title under which he was called to the Upper House. How his case came to be an exception, it is not difficult to divine. While he was only Sir Francis Bacon, he had acquired a popular reputation under that name. As long as he was Lord Verulam, he was also Lord Chancellor, and was so spoken of. When he ceased to be Lord Chancellor, he ceased to be before the public, and was scarcely spoken of at all. Hence it happened

[1] See "Notes and Queries," 4th Ser. vol. vi. p. 40. Camden, whose authority on such a point should be weighty, sets the first example. "*Julii* 12. *Cancellarius creatur cum investiturâ Baro de Verulamio.*" Annalium Apparatus, p. 33. The patent (11 July) as given in Rymer recognizes the title "Baron Verulam" in the heading (*De Francisci, Baronis Verulam, creatione*), but in the body of the document there is no "Baro Verulam" but only "Baro de Verulamio." "*Eidemque Francisco nomen, stylum, titulum et honorem baronis de Verulamio dedimus et præbuimus,*" etc.

that people never became familiar with either of his proper titles of nobility. When Lord Verulam or Lord St. Albans was spoken of it was necessary to explain that the person meant was Sir Francis Bacon; and thus the surname, which he had himself meant to part with for ever, had to reappear upon the title-pages of his works. And when in the course of time other candidates arose for both his other names,—when "Lord St. Albans" was a De Burgh or a Jermyn, and "Lord Verulam" a Grimston,—the patronymic, already popular, became indispensable. As a man, he must be Bacon; as a Peer, he must be Lord: and the two together make "Lord Bacon." And so, I fear, it must remain. To correct the name by which a famous man is popularly known is a vain ambition, and I can do no more than abstain in my own person from committing or sanctioning the barbarism. The surname, though a continual annoyance, I am obliged continually to use: but the false title may be dispensed with, if people are so disposed. And if when these volumes want binding the binder is directed to put "Francis," instead of "Lord," on the backs, it will not appear anywhere in this edition except in quotations from other writers.

In the next paper, which attests his continued diligence in the great business of setting the finances on a sound footing, he for the first time in this correspondence signs himself Francis Verulam. Those which follow will not, I think, be found to require any comment.

ORDERS CONCEIVED AND AGREED UPON BY THE LORDS AND OTHER COMMISSIONERS FOR THE TREASURY AT WHITEHALL THE 24TH OF JULY, 1618.[1]

First, it is ordered that there shall be a clear and perfect distinction kept between the receipts and payments made before Saturday last and those made since and in the time to come. And to that end a true certificate to be presently brought in of the state of the Receipt at that day, that the remain then resting in every teller's hand may appear.

2. A collection to be also presently made of all orders dated before that day for issuing of moneys, whereupon part is paid and part unpaid, that what resteth unpaid may appear by itself. And upon every several order an entry to be made of what is remaining unpaid; that no more monies at all be issued thereupon. But these remainders to be allowed only upon new orders as

[1] Lansd. MSS. 165. f. 274. Copy: one of Sir Julius Cæsar's papers.

there shall be direction given from time to time when money shall come in to clear the same.

3. That a book be presently made of all pensions and payments usually paid by debentur in general setting down in one column the certain yearly due for every particular, and in a second column what is at Midsummer last behind of the same, distinguishing the necessary servants of the King Queen Prince and Lady Elizabeth, as also of the officers of his Ma$^{ty's}$ Exchequer, and others of like attendance, from other pensioners at large, every company and sort by themselves. That the nature of their particular service or employment may appear, as well as their wages.

4. How the receipts of this week made since Saturday last shall be issued for his Ma$^{ty's}$ present service, the said Commissioners have subscribed to a note in writing which the Auditor of the Receipt and Clerk of the Pells are to see duly observed; and no money to be issued otherwise than according to that direction at their peril. And on Saturday next, or else as soon as may be, a perfect and true certificate to be brought to the said Commissioners under the said officers' hands, both of the receipts and issues of each several teller's office for the week then ended and the remains of the same; and that weekly certificates be continued constantly from henceforward whether the receipts be more or less, taking care that no sums be therein allowed that are not formerly truly paid to the parties by good and sufficient warrant.

5. Upon the weekly certificates brought in and delivered to Mr. Chancellor, the Commissioners will meet (if there be cause) and consider how that money remaining upon that weekly certificate may be issued to give best dispatch to his M. service, and set down their direction in writing for the same, and by what teller the particulars shall be paid, which it is agreed shall be duly observed without any power in the Clerks to add or diminish to or from the same unless upon any pressing occasion of his M. service the said Commissioners shall give special warrant for anything or in any other manner than is mentioned in the general weekly directions. And this course to be continued from week to week through the year.

6. That the tellers of the receipt shall give no bill for any sums received nor any tally be stricken by way of anticipation or assignation or otherwise for the same, till the money be really

brought into the Receipt, without special warrant from the Commissioners when they shall find any pressing occasion to require it to be otherwise.

7. That no order be drawn for the issuing of any monies until the Privy Seal or other warrant for the same be first passed under seal, nor upon any such warrant alone, if the same refer to certificates, books, bills, or accompts to be subscribed by others, unless the same certificates and books be accordingly subscribed and vouched in the order, and brought in to be kept of record by the officer that is to make the order, and if any such unwarrantable [order] shall happen to be made and escape signed, yet the Clerk of the Pell shall make stay thereof at his peril.

8. That no teller upon any particular direction do pay any of the money of his charge without the order be duly made, subscribed by the Commissioners, and entered and allowed with the Clerk of the Pell, nor any moneys upon any debentur till the same be likewise entered with the Clerk of the Pells, nor any sum either by order or debentur but such as shall be set down in the weekly directions or special warrants aforesaid, which shall be made public to all the officers of the Receipt for that purpose.

9. That a collection shall be presently made wherein shall be specified as well his M.'s debts of all natures besides those pensions formerly articled, distinguishing their several sorts, and which and how much thereof is for money borrowed upon interest, as also what Tallies of anticipation or ante-assignation are already stricken and past upon any part of his M. revenew which should otherwise have been paid and brought in for the time to come.

10. Another book to be also made of all manner of certain assignments already settled for the payment of his Ma$^{ty's}$ monies to any particular office or officer, distinguishing what is done by act of Parliament, what by great seal, and what by any other warrant or direction, that by these books now exactly once made up, both the present estate of his M. treasure may truly appear, and light may be had for the better governing and disposing of the same for hereafter.

Signed.

G. Cant. Fr. Verulam, Canc.
R. Naunton. Fulke Grevill.
Jul. Cæsar. Edw. Coke.

TO THE MARQUIS OF BUCKINGHAM.[1]

My very good Lord,

We have sat once upon the Commission of Treasure to no ill purpose, as may appear by the account enclosed; wherein his Majesty will find no preposterous issue of treasure: Mr. Chancellor imagines well; Coke seeks and beats over, as well where it is not as where it is; Secretary Naunton forgets nothing. I will look to bow things to the true ends. God bless and prosper his Majesty and yourself.

Your lordship's most obliged friend
and faithful servant,
FR. VERULAM, Canc.

25 July, 1618.

TO THE MARQUIS OF BUCKINGHAM.[2]

My very good Lord,

I pray your Lordship to signify to his Majesty that I thought it my duty to stay at the seal a book of Sir Francis Steward's, and Sir James Auterlony, etc. of £200 land in charge in fee-simple: My reasons,

First, It is a perpetuity, and so much rent in diminution of revenue certain.

Secondly, The warrant (as is acknowledged) came only from my Lord of Suffolk, and not from Mr. Chancellor. And yet my Lord was wont to boast, that since he was treasurer, all commissions and contracts for sale of the King's lands were broken off and ceased.

Thirdly, The rate of the moneys paid by the gentlemen amounteth but to thirteen years purchase; which is a plain gift of a good proportion of value.

If his Majesty, now informed, iterate his mandate, it is done, and I excused; but I could wish his Majesty would refer it to the Commissioners of the Treasury, how the gentlemen may be otherwise satisfied.

I received yesternight a brave account of the commission of the Wards in Ireland, which this one year is advanced from £200 per annum to £4000 which is twenty fold multiplied.

[1] Fortescue Papers. Original. Own hand.
[2] Stephens's first collection, p. 230. From the original. Second collection, p. 80.

This I write for two reasons. First, Because I glory in it, because it was my work wholly:[1] next, because his Majesty may take occasion by this to look better to the improvement of his Wards in England in due time. God ever preserve and prosper you.

Your Lordship's most obliged friend
and faithful servant,
FR. VERULAM, Canc.

York-house, 27th July, 1618.

TO THE MARQUIS OF BUCKINGHAM.[2]

My very good Lord,

I am very glad to hear of the honour his Majesty intendeth to my noble lady your Lordship's mother. This, amongst many other things, sheweth in your Lordship good nature, which is the root of all virtues, next religion. Besides it doth sort well in states, when place and power do meet, and stand not too far at a distance.

For the passing of it by direction without bill signed, it cannot be in law. So is Mr. Attorney's opinion, and so is mine; and therefore there is presently a bill sent with an indorsement of passing it by immediate warrant, and this antedate.

For the antedate, I must present his Majesty with my caution and with my obedience.

For the statute tieth me from antedates; and indeed the mischief is infinite: for by that means the King may grant any land, etc. and take it away a month hence and grant it another by an antedate. And surely were it land or the like, I would not say *Absit*, or, Your Majesty cannot do it, for a world; or, Your Majesty is sworn and I am sworn; or such brave phrases; but surely (I say) I would in humbleness represent it to his Majesty.

But the case of honour differeth; for therein his Majesty's

[1] "Last night late" (writes Winwood to Lake, August 21, 1617) "I received the enclosed bill from my Lord Keeper, which is a record of the commission for his M. wards in Ireland. I send you likewise his letter herewith unto me, wherein he desires that the commission may be signed or returned back unto his Lp. as soon as may be. I pray you procure his M. hand unto it at your first conveniency, and send it back unto me." S. P. Dom. James I. vol. xciii. no. 33.

[2] Stephens's first collection, p. 231. From the original. Second collection, p. 82.

prerogative and declaration is absolute, and he may make him that is last to be first. And therefore upon his Majesty's signification of his pleasure upon the indorsement of the bill signed, I take it I may lawfully do it.

I am here rejoicing with my neighbours the townsmen of St. Albans, for this happy day, the fifth of August, 1618.

Your lordship's most obliged friend
and faithful servant,
FR. VERULAM, Canc.

Gorhambury.

4.

The next letter relates to an unfortunate accident of which Lorkin sent the following account to Sir Thomas Puckering a few days after it happened.

"Last Sunday," he says, "happened here in London a great tumult against the Spanish ambassador, upon this occasion: A gentleman of his, riding through Chancery Lane, and not so well heeding his way as was fit, rode over a child, and left it in great danger of death. Presently offer was made to seize upon him, but he put spurs to his horse and away. The people followed him after, and as the length of their way increased so the people multiplied, they say, to the number of four or five thousand. These beset the Spanish ambassador's house, whither the delinquent had betaken himself, demanded the offender, and upon refusal proceeded to break down the windows, and to threaten a forcible entry. Neither could they be quieted till my Lord Chief Justice came thither himself in person, and carried the party along with him prisoner to his own house, promising the course of justice should pass upon him; wherewith they were appeased."[1]

It is a striking evidence of the tendency of national animosities to pass from one generation to another, that to this day our popular sympathy is with the rioters. An English child is ridden over by a gentleman belonging to the suite of the Spanish Ambassador. That it was done on purpose, we do not say. That it was done through blameworthy carelessness, we have no reason to think. A mob of four or five thousand Englishmen (who could not possibly have had means of better information) demand that he shall be delivered up to them.[2] To prevent worse violence, he *is* delivered up to the Lord

[1] Court and Times of James I. vol. ii. p. 81.

[2] The child was not really hurt (see the Lord Mayor's letter to the Council, July 14: S. P. vol. xcviii. no. 18). But that does not affect the real question. For the mob thought he was; and if he had died, the outrage against justice would not have been at all the more excusable.

Chief Justice. And we cannot yet relate without a kind of indignation either that the 'delinquent' was not proceeded against, or that the rioters were.

It seems that the Lord Mayor and the City were for letting it pass, but the King insisted that it should be "examined and sifted to the full," and therefore "appointed the Lord Coke to be a principal commissioner."[1] By his direction Bacon wrote both to Coke and Cæsar, requiring their attendance by name. His letter to Coke, which seems to have entered most into particulars, has disappeared;[2] but the other has been preserved among Cæsar's Papers, and is here transcribed from the original.

To Sir Julius Cæsar, Knight, Master of the Rolls and of his M. most Hon^ble Privy Council.[3]

M^r of the Rolls. His Ma^ty's pleasure is that a proceeding be forthwith had upon the Commission of Oyer and Terminer, concerning the late tumult and assault made upon the Spanish ambassador's house.

And because this day and to-morrow are Session days, I should think Monday or Tuesday next were a fit time if you shall so resolve; wherein I must let you know his M. doth require by name that both yourself and Sir Edward Cooke be present. Of this (though it needed not) I have written at large to Sir Edward Cooke, to which I refer you. And so with my good wishes unto you, and desire that at your best leisure I may see you and my good niece[4] (to whom I pray you heartily commend me) at Gorhambury, where you shall be welcome, I rest

Your assured friend,

Fr. Verulam, Canc.

Gorhambury,
6 August, 1618.

The result we hear from Chamberlain (15 August).

[1] Chamberlain to Carleton, 8 August, 1618.

[2] It seems to have been among the papers sent to Tenison in 1682, there being an entry in Stephens's catalogue of a letter "to Sir Edward Coke"—"about the trial of a riot"—beginning "His Majesty's pleasure is." But I did not succeed in finding any such letter at Lambeth, where most of the papers in that catalogue are preserved.

[3] Additional MSS. (B. M.) 12,507. f. 40. Original: written in the hand of Edward Sherburn.

[4] Sir Julius had married one of Bacon's nieces.

"The commission I wrote of held on Wednesday at the Guildhall, where there were nine poor-snakes indicted for the riot committed at the Spanish ambassador's. Seven were found guilty, and adjudged to six months' imprisonment, and to pay £500 a piece. The other two were acquitted."[1]

The next letters explain themselves.

To THE MARQUIS OF BUCKINGHAM.[2]

My very good Lord,

I thank your Lordship for your last loving letter. I now write to give the King an account of a patent I have stayed at the seal. It is of licence to give in mortmain eight hundred pound land, though it be of tenure in chief, to Allen that was the player, for an hospital.

I like well that Allen playeth the last act of his life so well; but if his Majesty give way thus to amortize his tenures, his Courts of Wards shall decay, which I had well hoped should improve.

But that which moved me chiefly is, that his Majesty now lately did absolutely deny Sir Henry Savile for £200 and Sir Edwin Sandys for £100 to the perpetuating of two lectures, the one in Oxford, the other in Cambridge, foundations of singular honour to his Majesty (the best learned of kings) and of which there is great want; whereas hospitals abound, and beggars abound never a whit the less.

If his Majesty do like to pass the book at all; yet if he would be pleased to abridge the £800 to £500 and then give way to the other two books for the university, it were a princely work. And I would make an humble suit to the King, and desire your Lordship to join in it, that it mought be so. God ever preserve and prosper you.

Your Lordship's most obliged friend
and faithful servant,
FR. VERULAM, Canc.

York-house, this 18th of August, 1618.

I have written to my Lord Chamberlain, being Chancellor of Oxford, to help in the business.

[1] S. P. vol. xcviii. no. 84.
[2] Stephens's first collection, p. 233. From the original. Second collection, p. 83.

To the Lord Chancellor.[1]

My honourable Lord,

Whereas it hath pleased his Majesty to recommend unto your consideration a petition exhibited by Mr. Fowle together with the grievances and request for the rectifying of the work of gold and silver thread; and now understandeth that your lordship hath called unto you the other commissioners in that cause, and spent some time to hear what the opposers could object, and perceiveth by relation of a good entrance you have made into the business; and is now informed that there remaineth great store of gold and silver thread in the merchants' hands brought from foreign parts, besides that which is brought in daily by stealth and wrought by underhand workers, so that the agents want vent; with which inconveniences it seemeth the ordinary course of law cannot so well meet: and yet they are inforced for freeing of clamour to set great numbers of people on work; so that the commodity lying dead in their hands, will in a very short time grow to a very great sum of money: To the end therefore that the undertakers may not be disheartened by these wrongs and losses, his Majesty hath commanded me to write unto your Lordship, to the end you might bestow some more time this vacation in prosecuting the course you have so worthily begun, that all differences being reconciled the defects of the commission may be also amended for prevention of further abuses therein, so as the agents may receive encouragement to go on quietly in the work without disturbance. And so I rest

Your Lordship's faithful friend and servant,

G. Buckingham.

From Bewly,
the 20 day of Aug. 1618.

To Mr. Isaac Wake, his Majesty's Agent at the court Savoy.[2]

Mr. Wake,

[I] received some letters from you; and hearing from my Lord Cavendish how well he affects you, and taking notice also of [your] good abilities and services in his Majesty's affairs, and not forgetting the knowledge I had when I was young of your good father,[3] I thought myself in some sort tied not to keep from you my good opinion of you, and my desire to give you any furtherance in your fortunes and occasions, whereof you

[1] Harl. MSS. 7006. f. 95. Orig. Docketed by Meautys, "20 Aug. 1618. His Ma. pleasure signified by my Lo. Marq. of Buck^m touching the settling of Fowles his business."

[2] Gibson Papers, vol. viii. f. 96. Copy; hurried, apparently, and incorrect. No flyleaf. Indorsed in the usual hand, "To Mr. Wake his Ma. agent in Savoy."

[3] Arthur Wake, Rector of Billing in Northamptonshire, Master of the Hospital of St. John in Northampton, and Canon of Christ Church, Oxford. (Note by Birch.)

may take knowledge and liberty to use me for your good. Fare you well.

Your very loving friend,

FR. VERULAM, Canc.

York-house, this 1°
Sept. 1618.

5.

The account of receipts and disbursements which follows is preserved among the State papers. How it came there I do not know: but at the time of Bacon's impeachment, evidence as to the state of his accounts would naturally be called for by the committees charged with the investigation; and some of the documents if left in the possession of the chairman or clerks may easily have found their way to the Paper Office. But however it came there, it carries proof of authenticity on its face: being an original paper in the hand of Edward Sherburn, who was then in Bacon's service, and much used in his most confidential business.

I do not know enough of the sources which then supplied the Lord Chancellor's income and were considered legitimate, to judge whether any safe inference can be drawn from the first part of this statement as to the character of his receipts; but the account of his disbursements is not without interest for us; as helping us to form an idea of the style in which he lived. A good deal of it has been given by Mr. Dixon in his "Story of Bacon's Life:" but it is difficult by extracts to convey the effect of the whole; and I have thought it best to present it entire. I have not cared however to keep the old spelling, and I have set down the figures in modern fashion. In the original there are eight places for figures in every line, four for the pounds, two for the shillings, and two for the pence: all of which are carefully filled up, a cipher being inserted in every place not occupied by another figure: as for instance,—

£.	s.	d.
0100	00	00
0400	00	00
0100	02	00

RECEIPTS AND DISBURSEMENTS, BEGINNING THE 24TH OF JUNE, 1618, AND ENDING THE 29TH OF SEPTEMBER, 1618.[1]

June, 1618.	Receipt.	£.	s.	d.	
25.	Of Mr. Champion, for the Clerkship of the Peace of the County of Surrey	100	0	0	Upon surrender [?]
27.	Of your Lp. from Mr. Tob. Matthewes	400	0	0	
27.	Of Mr. Ben, Recorder of London	22	0	0	
July, 1618.					
1.	Of your Lp. from Mr. Hastings	100	2	0	
1.	Of Mr. Hunt[2] in part of your Lps. fees for Easter Term	200	0	0	
7.	Of Mr. Tothill and Mr. Penyman, two of the Six Clerks of Chancery	200	0	0	
23.	Of Mr. Hunt, the remain of your Lp's fees for Easter term	32	5	0	
23.	Of Mr. Edney[3] by your Lp. order	209	0	0	
	Of Mr. Young, your Lp. Secretary	300	10	0	
	Of Mr. Hatcher[4] from the Hamper	680	0	0	
August, 1618.					
2.	Of Mr. Hunt	110	0	0	Upon the death of Sir Ma. Carew.
7.	Of Mr. Rich, one of the M[rs] of the Chancery	1200	0	0	
14.	Of Mr. Parker, deputy Clerk of Star chamber	100	0	0	
15.	Of Mr. Hatcher, from the Hamper	106	15	10	
September, 1618.					
15.	Of your Lp. delivered by Mr. Hatcher	100	0	0	
16.	Of S[r] Thomas Smith	200	0	0	
28.	Of Mr. Hatcher for the business of the Pedlers	100	0	0	
	The Total of the moneys Received from the 24th of June, 1618, till the 29th of September following amounts to	4160	12	10	

June, 1618.	Gifts and Rewards.	£.	s.	d.
26.	To one that brought your Lp. cherries & other things from Gorhambury by your Lp.'s order	0	6	0
27.	Laid out for going by water to Greenwich 2 several times by your Lp.'s order and for other expences there	1	2	0
29.	To an Italian by your Lp. order	5	10	0
30.	To Mr. Butler by your Lp. order as a gift	22	0	0

[1] S. P. Dom. James I. vol. xcix. no. 86.
[2] Receiver of casual fines. [3] Of the chamber. [4] Seal-bearer.

July, 1618.	Gifts and Rewards.	£.	s.	d.
1.	To my La. Hatton's man that brought your Lp. garden seeds	0	11	0
4.	To an Italian by your Lp. order	5	10	0
4.	To Mr. Fletcher by your Lp. order as a gift	5	10	0
4.	To Sir John Seymor's man that brought your Lp. a buck	1	2	0
4.	To Mr. Fanceed's man that brought your Lp. cherries	0	2	6
5.	To Mr. Matthew's man that brought your Lp. sweetmeats	0	5	0
5.	To Mr. Recorder's man that brought your Lp. a salmon	0	10	0
5.	To my La. Poyznes her man that brought your Lp. a stag	2	0	0
6.	To Mr. Trowshaw, a poor man & late a prisoner in the Compter by your Lp. order	3	6	0
6.	To the Washwoman, for sending after the Crane that flew into the Thames	0	5	0
8.	To Mr. Guilman by your Lp. order as a gift	25	0	0
	To Mr. Betnam by your Lp. order as a gift	10	0	0
8.	To my Lady's footman that brought your Lp. cherries from Gorhambury	0	5	0
14.	To the King's trumpeters by your Lp. order	2	4	0
14.	To the Prince's trumpeters by your Lp. order	3	6	0
15.	To the Doctor that brought your Lp. the clock	5	10	0
26.	To Mr. Kellett's man by your Lp. order	0	10	0
27.	To Sir Arthur Gorge's man that brought your Lp. a book	0	10	0
27.	To Mr. Johnson by your Lp. order for his son and his son's tutor at Eton	4	8	0
27.	To Mr. Compton the apothecary, by your Lp. order	2	4	0
27.	To one Egerton by your Lp. order for a book	1	2	0
27.	To Mr. Nichols by your Lp. order when your Lp. went to Gorham:	2	4	0
30.	To Sir Samuel Paton's man that brought your Lp. 12 dozen of Quails	1	2	0
30.	To Mr. Jones the apothecary his man	0	5	0
31.	To Sir Edward Carew's man that brought your Lp. boxes of orange flowers, by your Lp. order.	0	10	0
August, 1618.				
1.	To the apothecary of St. Albans, by your Lp.'s order	1	2	0
1.	To a poor pilgrim by your Lp. order	2	4	0
2.	To a poor man at St. Albans by your Lp. order	0	2	6
2.	To Mr. Gibsons maid of St. Albans that brought your Lp. Six Turkies.	0	5	6
2.	To my Lo. Wentworth's man, that brought your Lp. a buck	1	2	0
3.	To my Lo. of Salisbury's man that brought your Lp. a stag	3	6	0

August, 1618.	Gifts and Rewards.	£.	s.	d.
4.	To Sir Robert Chichester's man that brought your Lp. a horse	3	6	0
4.	To my L. of Northampton's man that brought your Lp. a buck	1	2	0
5.	To Mr. Recorder's man, that brought your Lp. 2 salmons	1	2	0
5.	To Jo. Cockaine by your Lp. order as a gift	1	2	0
5.	To the apothecary of St. Albans by your Lp. order	1	2	0
6.	To my Lo. of Dorset's man that brought your Lp. Heathpouts	1	13	0
8.	To Mr. Prograve's man that brought your Lp. 12 fat wethers	2	4	0
8.	To your Lp. bottleman as a gift	0	10	
8.	To Mr. Betnam by your Lp. order as a gift	5	0	0
8.	To Humphrey Leigh by your Lp. order as a gift	5	0	0
8.	To Sir Rob. Butler's man that brought your Lp. a stag	2	0	0
9.	To my Lo. Rich his man that brought your Lp. letters from London	0	5	0
9.	To French your Lp. shoemaker his man, for horse hire and his pains in coming to Gorham:	0	5	0
10.	To one of the Prince's keepers that brought your Lp. a stag	5	10	0
10.	To Thomas Harsnep, groom of your Lp. footcloth, as a gift	1	2	0
10.	To Mr. Caye's man that brought your Lp. ducks	0	2	6
12.	To the apothecary of St. Albans by your Lp. order	1	2	0
13.	To Jo: Dalton for going with the Sumpter	0	2	6
14.	To Goodman fossey, a poor man, upon his petition by your Lp. order	1	0	0
	To one that rode twice to London by your Lp. order for beer	0	5	0
15.	To Sir Thomas Poeblunt's man that brought your Lp. a buck	1	2	0
15.	To Sir Arthur Capell's man that brought your Lp. a buck	1	2	0
16.	To musicians at Goram: by your Lp. order	0	5	6
16.	To goodwife Smith, a poor woman at Goram: by your Lp. order	1	2	0
16.	To Mr. Neale's man that brought your Lp. partridges	0	5	0
16.	To Mr. Beomont's man that brought your Lp. apricocks	0	3	0
16.	To Jo: Spencer your Lp. late servant by your Lp. order	1	2	0
16.	To one that went for Mr. Wendie	0	5	0
17.	To Mrs. Spencer by your order	3	6	0
17.	To her maid by your Lp. order	1	2	0
17.	To my Lo. Cavendish his footman by your Lp. order	0	5	0
17.	To Mr. Boulton by your Lp. order	11	0	0
17.	To my Lo. of Salisbury's man that brought your Lp. a buck	1	13	0
17.	To Mr. Guilman by your Lp. order as a gift	1	2	0
18.	To my Lo. of Suffolk's man that brought your Lp. a stag	2	15	0

August, 1618.	Gifts and Rewards.	£.	s.	d.
18.	To Mr. Robingson by your Lp. order, by his journey to Stow & London with letters about your Lp. service .	1	13	0
18.	To Mr. Matthewes man by your Lp. order . . .	2	4	0
18.	To Mr. Faldoe's man that brought your Lp. 10 fat wethers	2	4	0
18.	To Sir Jo. Lenthrop's man that brought your Lp. a fat bullock	1	2	0
18.	To Rambridg his child by your Lp. order . . .	1	2	0
18.	To my L. of Northampton's man that brought your Lp. a buck	1	2	0
19.	To Mr. Bill's man for bringing books to Goram. by your Lp. order	1	13	0
19.	To Goodwife Smith by your Lp. order	1	2	0
19.	To Will[m] London your Lp. Coachman as a gift . .	3	6	0
	To the several servants of your Lp. house at Gorhambury at your Lp. coming from thence by your Lp. order .	15	14	0
	To the carters that came up to London with the trunks .	0	10	0
	To him that came with the Confectionary Glasses . .	0	3	0
	To him that came with the sumpters	0	2	6
	To the woman that washed & starched your Lps. linninge at Goram	0	6	0
	Spent at Bernard as your Lp. came up to London . .	0	11	0
	To Mr. Hackwell's man that presented your Lp. with a sun dial of stone cut in books	1	2	0
	To the artificer that made it by your Lp. order . .	0	5	0
	To the Prince's trumpeters by your Lp. order . .	2	4	0
	To my Lo. of Ormonts man that brought your Lp. a cast of Irish hawks	2	4	0
	To Mr. Treavor's man that brought your Lp. sugar cakes	0	2	6
	To the weeders in the garden by your Lp. order . .	0	2	0
	To old Mr. Hillyard by your Lp. order	11	0	0
	To Mr. Lowe for his charges in his journey to[1] . .	6	12	0
	To Sir Henry Spiller's man that brought your Lp. a buck	1	2	0
	To your Lp.	5	10	0
	To my Lo. of Northumberland's Butler by your Lp. order	2	4	0
	To my Lo. Rich his man that brought your Lp. pheasants & partridges by your Lp. order	1	2	0
	To Mr. Kellett by your Lp. order	0	11	0
	To Jo. Large, your Lp. old servant that brought your Lp. a l're from Gorhambury, by your Lp. order . .	1	2	0
31.	Given at Hampstead when your Lp. dined there . .	2	11	0
September, 1618.				
1.	To one that went to Verginia by your Lp. order . .	2	4	0
1.	To the M[r] of the Rolls of Ireland his man by your Lp. order	1	13	0

[1] An abbreviated name, which I cannot clearly make out. Perhaps "Coventry."

September, 1618.	Gifts and Rewards.	£.	s.	d.
2.	To Mr. Kellett's man by your Lp. order	0	5	0
3.	To a woman that brought your Lp. a hare . . .	0	5	0
5.	To my Lo. Deputy's man of Ireland that brought your Lp. a Cast of Hawks	4	8	0
5.	To Mr. Betnam by your Lps. order—And Mr. Nicholls .	2	4	0
6.	To my Lo. Periam's man by your Lp. order . . .	1	2	0
6.	To him that carried the glasses of the Confectionary to Windsor & back	0	11	0
6.	To him that went & came with the sumpter . . .	0	5	0
7.	To Jo. Cockaine by your Lp. order.	0	11	0
7.	To Mr. Butler by your Lp. order	1	2	0
7.	To Sir Willm. Herbert's man by your Lp. order that brought your Lp. a buck	1	2	0
7.	To Sir Willm. Milemay's man that brought your Lp. pheasants & partridges	1	2	0
8.	To the Musicians at Windsor by your Lps. order . .	2	4	0
8.	To Serg[t] Finch his son & Mr. Johnson's son at Eton by your Lp. order	1	2	0
8.	To the Dean of Windsor's servants at your Lp. coming from thence	1	14	0
9.	To the Bishop of Chester's man for a book . . .	1	2	0
9.	To my La. Eliz. her grace's servant by your Lp. order .	1	2	0
10.	To Sir Jo. Kiddermasters man that brought your Lp. a buck	1	2	0
10.	To a Dutch musician by your Lp. order	1	2	0
11.	To George the Verginian by your Lp. order . . .	0	10	0
11.	To Sir Charles Howards man that brought your Lp. a buck with the head and umbles by your Lp. order .	2	4	0
14.	To Mr. John Murray's man, that brought your Lp. a book from the King, by your Lp. orders . . .	4	8	0
15.	To Dr. Baskerville & D. Gulston by your order as a gift	4	8	0
15.	To Mr. Gray, a physician by your Lp. order . . .	2	4	0
15.	To Mr. Kellett by your Lp. order as a gift . . .	1	2	0
15.	To Sir J. Tho: Perient's man that brought your Lp. Pheasants & Partridges	1	13	0
15.	To my La. Stanhope's man that brought your Lp. a cheese	0	5	6
16.	To Mr. Shute's man that brought your Lp. a red deer [ ][1]	0	11	0
16.	To Mr. Nicholls the remain of his allowance in the time of your Lp. being at Goram. for diet, by your Lp. order	0	8	6
16.	To Mr. Herris for a book w[h] he bought for your Lp. .	0	1	0
17.	To a poor woman, one Knight's wife, by your Lp. order .	1	2	0
17.	To my La. Periam's footman by your Lp. order . .	0	11	0
17.	To one that brought your Lp. strawberries from Hackney	0	11	0

[1] The last word is blotted. It looks like 'jaye' or 'yaye.'

September, 1618.	Gifts and Rewards.	£.	s.	d.
18.	To the Queen's gardener by your Lp. order	0	11	0
19.	To Mr. Buckmasters man that brought your Lp. a dozen of live partridges	0	11	0
19.	To the Mr of the Rolls his man by your Lp. order	0	5	0
20.	To the Apothecaries man by your Lp. order	0	5	0
21.	To a carpenter of Goram. by your Lp. order	0	5	0
22.	To Moris for his lodging at Windsor	0	5	0
22.	To a messenger sent to Goram. with l'rs	0	5	6
22.	To Mr. Bettnam by your Lp. order as a gift, when your Lp. went to Hampton Court	2	4	0
23.	To one that brought your Lp. cheeses	0	11	0
24.	To Rich. Wood your Lps. bottleman as a gift	1	2	0
25.	To Sir Francis Darcies man by your Lp. order	0	11	0
25.	To Dr. Corbett's man that brought your Lp. fruit	0	11	0
26.	To a poor man that brought your Lp. grapes	0	11	0
26.	To the gardener at Hampton Court by your Lp. order	0	3	0
26.	To my La. Bedford's man by your Lp. order	1	2	0
	To Mr. Stapleton's man that brought your Lp. a Swan & 4 Godwits by your Lp. order	0	11	0
	To the Queen's herbwoman that brought your Lp. Muskmilians by your Lp. order	0	5	0
28.	To Dr. Corbetts man by your Lp. order that brought your Lp. fruit	0	11	0
28.	To a groom of the Ks. chamber that brought your Lp. pears by your Lp. order	0	2	6
	The total of all the money disbursed in gifts & rewards from the 24th of June till 29th September 1618, amounts to	302	7	0

June, 1618.	Payments.	£.	s.	d.
25.	Paid the Lining draper and sempster's bill for cloth and lace and making your Lp. Ruffs, & Cuffs, & Shirts, as appears by the particulars	29	8	10

July, 1618.				
2.	Paid Mr. Hallett for the interest of 100lb for 6 months 5lb and to his man 10s—in all	5	10	0
3.	Paid Humphrey Leigh his bills of money given to the poor by your Lps. order	15	0	2
3.	Paid Mr. Hill the Scrivener for the interest of 200lb for 6 months, to the use of Mr. Henry Goldsmith, & for the forbearance	11	0	0
4.	Paid for a looking-glass for your Lps. case	0	18	0

July, 1618.	Payments.	£.	s.	d.
4.	Paid the Shoemaker his bill for Mr. Edney's ware from 23 March till 25 June	7	9	6
5.	Paid Humphrey Leigh his bill of money given to the poor from 25 June till 2 July 1618	5	2	0
6.	Paid the Steward by your Lp. order	200	0	0
8.	Paid Mr. Young your Lp. secretary by your Lp. order	66	0	0
8.	Paid the La. Hicks for the interest of 200^{lb} for 6 months	10	0	0
8.	Paid Mr. Neave the upholster in part of his bill of 647^{lb} 7^{s} 6^{d} 200^{lb}. So there now remains due unto him 447^{lb} 7^{s} 6^{d}	200	0	0
8.	Paid Mr. Bate, habendasher of small wares, in part of his bill	10	0	0
9.	Paid Mr. Durant his bill for necessaries for your Lps. use	0	13	0
9.	Paid Mr. Parkinson the Linen draper by your Lp. order in part of his bill of 158^{lb}	50	0	0
9.	Paid Mr. Wade the Grocer by your Lp. order in part of his bill of 26^{lb}	20	0	0
9.	Paid Mr. Harwood the Perfumer in full of all due to him till this present 9th of July	7	17	0
9.	Paid Mr. Anthony by your Lp. order a bill for Jo: Cockaine's apparel from 1st Dec. 1617 till 9th of July 1618	28	16	0
9.	Paid the Steward by your Lp. order	400	0	0
23.	Paid Mr. Hunt for the Post fine 3^{lb} 15^{s}, and for pleading your Lp. licence & Maistens licence 3^{lb} 17^{s}	7	12	0
23.	Paid Mr. Collison the Ironmonger by your Lp. order in full of an old bill of all due unto him.	21	2	0
	Paid the Steward by your Lp. order	200	0	0
23.	Paid Mr. Young by your Lp. order [in p^{t} towards the hangings[1]]	110	0	0
23.	Paid Mr. Johnson by your Lp. order	88	0	0
24.	Paid Mr. Portington for boat hire to Greenwich & Lambeth in your Lp. service	0	6	0
24.	Paid Mr. Davies the mercer his bill for wares lately bought for your Lp. use	10	5	0
24.	Paid the Steward by your Lp. order	200	0	0
25.	Paid Mr. Pemberton silkman in part of his bill of 130^{lb} by your Lp. order 50^{lb}. So there remains due to him 80^{lb}	50	0	0
25.	Paid Mr. Glover the Tailor in part of his bill of 65^{lb} by your Lp. order 30: Rem. 35	30	0	0

[1] Interlined in another hand which I think I have seen before.

July, 1618.	Payments.	£.	s.	d
25.	Paid Mr. Markham silkman in part of his bill of 326lb 4s 6d by your Lp. order 50lb. Rem. 276. 4. 6. .	50	0	0
25.	Paid Mr. Askew the silkman by your Lp. order in full of his bill of all due to him	48	0	0
25.	Paid Humphrey Leigh his bill of money given to the poor from the 2 of July to the 23	15	13	10
25.	Paid Christopher King his bill for making up your Lp. last suit with all things belonging & for other necessaries in the Chamber	17	19	0
25.	Paid for a dozen of Handkerchers for your Lp. . .	0	18	0
26.	Paid the Steward by your Lp. order	100	0	0
27.	Paid Mr. Corbett the Tailor in full of his bill . . .	20	0	0
27.	Paid Mr. Cristie the sadler a bill for my La. furniture .	7	10	0
28.	Paid for the exchange of 400lb into gold	0	14	0
31.	Paid the Clerk of the Kitchen at Goram. by your Lp. order	50	0	0
August, 1618.				
1.	Paid for the interest of 1000lb for 4 months due this first of August 1618 to Mr. Courten	33	6	8
2.	Paid Humphrey Leigh his bill for money given to the poor from 23 to 30 of July	5	11	6
2.	Paid Mr. Durant his bill for necessaries for your Lp. use	0	17	4
3.	Paid Peter Radford his bill	0	15	0
8.	Paid the Clerk of the Kitchen by your Lp. order for the house	50	0	0
11.	Paid your Lp. 2 footmen their bill for going journeys & other occasions	1	12	6
15.	Paid Mr. Wells your Lp. Butcher at Gorhambury in part of his bill of a greater sum due unto him by your Lp. order	100	0	0
15.	Paid Mr. Spencer the Minister of St. Michaels for his quarter's allowance due at Midsummer . . .	2	10	0
17.	Paid the Clerk of the Kitchen at Gorhambury by your Lp. order	50	0	0
17.	Paid Mr. Dobson by your Lp. order to discharge arrears of workmens bills left unpaid at Whittide last . .	100	0	0
20.	Paid the Steward by your Lp. order	100	0	0
20.	Paid Mr. Sprignell for the interest of 800lb for 6 months due the 17th of June last	40	0	0
21.	Paid Humphrey Leigh his bill of money given to the poor from the 1st to the 14th of August	5	3	0
22.	Paid Mrs. Harris by your Lp. order for a fair ruby set in a ring	20	0	0

August, 1618.	Payments.	£.	s.	d.
22.	Paid Mr. Kellett by your Lp. order his bill for Physic .	17	12	0
25.	Paid the Steward by your Lp. order for Gorhambury occassions	200	0	0
31.	Paid Humphrey Leigh his bill of money given to y^{e} poor from the 14th to the 27th of August	8	14	0
	September, 1618.			
1.	Paid the Picture drawer for your Lp. picture . . .	33	0	0
1.	Paid the Steward by your Lp. order	200	0	0
5.	Paid Mr. Wightman for the interest of 100^{lb} for 6 months, due the 2 of August 1618	5	0	0
5.	Paid King his bill for necessaries in the Chamber . .	0	17	0
5.	Paid Mr. Tichburne the linen draper by your Lp. order in part of his bill of 29^{lb} 5^{s} 9^{d} 10^{lb}. Rem. 19^{lb} 5^{s} 9^{d} .	10	0	0
5.	Paid Mr. Edmund Mewtis by your Lp. order to discharge horse meat at Windsor	13	4	0
5.	Paid the Steward by your Lp. order	100	0	0
10.	Paid Mr. Bate haberdasher of small wares in part of his bill by your Lp. order	10	0	0
11.	Paid Mr. Miller the woollen draper by your Lp. order in part of his old bill of 240^{lb} 100^{lb}. Rem. 140 . .	100	0	0
12.	Paid the Steward by your Lp. appointment . . .	200	0	0
12.	Paid Humphry Leigh his bills of money given to the poor from 27 August till 10th 7^{ber}	9	5	6
13.	Paid Peter Radford his bill for Rosemary & Bays . .	0	5	0
14.	Paid Mr. Cambell for the interest of 200^{lb} for 6 months, due the 10th of 7^{ber} 1618	10	0	0
	To the Scrivener for his consideration	1	0	0
14.	Paid Mr. Durant his bill for [ ][1] at Windsor & other occasions			
17.	Paid the Steward by your Lp. order for Mr. Styles the mason for the works at Verulam	50	0	0
22.	Paid the Steward by your Lp. order, w^{h} was delivered to the Clerk of the Kitchen for provision at Hampton Court.	50	0	0
23.	Paid for 2 doz. of handkerchers at 18^{s} and 2 doz. of socks at 9^{s} for your Lp.	2	14	0
24.	Paid Humphry Leigh his bill of money given to the poor from the 10th to the 17th 7^{ber}	2	9	6
24.	Paid the Sempters bill for making up 4 shirts, 2 ruffs, & 14 pairs of cuffs, with the lace for the Ruffs & Cuffs & the washing & starching	6	8	8

[1] The word is worn away.

September, 1618.	Payments.	£.	s.	d.
24.	Paid for a fan for your Lp.	1	10	0
22.	Paid the Steward for household expence . . .	51	0	0
25.	Paid for a Key for Hampton Ct Garden for 3 locks .	0	7	0
26.	Pd Mr. Edmond Mewtis to discharge horsemeat & diet for the grooms at Hampton Court	22	0	0
	The total of the money paid from the 24th of June till the 29th of September 1618 amounts to .	3711	4	2

Another paper in the same collection contains a list of all Bacon's servants. Its date must have been a little earlier than the 12th of July, because it appears by the heading that though he was then Lord Chancellor he was still Sir Francis Bacon. Though imperfect, it will help to complete our idea of his style of life in the day of his greatness; and the names and functions of his principal officers and attendants may sometimes be of use in explaining transactions which would be otherwise obscure.

A CHEQUE [ROLL] OF ALL THE SERVANTS OF THE RIGHT [HONOURABLE SIR FRANCIS] BACON, KNIGHT, LORD CHANCELLOR OF [ENGLAND.][1]

Mr. Oates . . . . } Mr. Lewis[2] . . . . }	Chaplins.
Mr. Leigh	Serg[t] at arms.
Mr. Sharpeigh . . .	Steward.
Mr. Hatcher	Seale-bearer.
Mr. Yonge . . . . } Mr. Thomas Mewtys . }	Chief Secretaries.
Mr. Johnson	chief gent[a] usher.
Mr. Phillips	Auditor.
Mr. Edmund Mewtys	Gent. of the horse.
Mr. Harris . . . . } Mr. Jones . . . . }	Remembrancers for benefices.
Mr. Troughton . . . } Mr. Boroughs . . . }	[illegible.]
Mr. Butler . . . . } Mr. Bushell . . . . }	gent[a] ushers.
Mr. Alman	Clerk for the Commission of Peace.
Mr. Hunt	Receiver of casual fines.

[1] S. P. Dom. James I. vol. xcv. no. 64.
[2] 'Mr. Cecill' had been written first.

Mr. Lowe	of the Chamber.
Mr. Edney	
Mr. Woder	
Mr. Nicholson	
Mr. Sherborne	
Mr. Goodrick	
Mr. Bassano	Sewer.
Capten Garrett	Gentlemen Waiters.
Mr. Kemp	
Mr. Faldo	
Mr. Travers	
Mr. Wells	
Mr. Bowes	
Mr. Guilman	
Mr. Fletcher	
Mr. Anthony	
Mr. Percy	
Mr. Nicolas Bacon	
Mr. Underhill	
Mr. Mannering	
*Mr. Carrell[1]	
*Mr. Parsons	
Mr. Allen	
Mr. Portington	
*Mr. Goodericke	
Mr. Josline	
Mr. Moyle	
Mr. Walley	
Mr. Hogins	
*Mr. Ball	
*Mr. Price	
*Mr. Pearce	
Mr. Beall Saperton	
Mr. Cokayne	Pages.
Mr. Bettenham	
Mr. Cooke	
Mr. Paddon	
James Edwardes	Door Keeper.
Robert Durant	Barber.
Stephen Read	Messenger.
Humphrey Leigh	Yeomen ushers.
Neale	
Henry Syll	Mr. Cooks.
[Blank in MS]	

[1] The names marked with an asterisk (*) have a line drawn through them in the MS.

Will^m Ockold John Nicolson Christopher King	Yeomen of the Wardrobe.
Roger Pilkington	of the wine cellar.
Edward Isaack John Humphrey *Joan Humphrey[1]	of the ewry and pantry.
Richard Edwardes Morrice Davies John Oakes[2] Wood	Butlers.
Richard Wood	Bottleman.
George Price	Yeoman of the horse.
John Whitney	Cook.

The sheet of parchment on which this is written is divided into two columns, the first of which ends here. Of the second, which has been almost obliterated, enough remains to shew that it contained the remainder of this list (making the number of names 100), and then another list of some other household (Gorhambury, perhaps) which fills the rest of the column, and appears to have been continued on the other side. The number of names on this side is about 50. How many on the other it is impossible to guess.

6.

Of the five letters which follow, the first two are intelligible enough, only that they do not fit naturally with the last communication on the same subject. The "fitness and conveniency of the gold and silver thread business" was a question on which the opinion of the learned counsel had been taken some time ago. The report had been favourable; the project being one which (according to Bacon's political economy) would benefit England by employing her poor in work tending to bring in and keep within the country some quantity of precious metal, which would otherwise go to enrich the foreigner. But it had difficulties to contend with. The manufacture was not altogether new in England. It was new in the mode and on the scale on which it was now proposed to work it; and much money had been laid out in bringing it in. But there were, and had long been, manufacturers of gold and silver thread in the country; and they disputed the right of the patentees to forbid them the practice of their mystery. After much litigation and long deliberation in Council, the first patent (1611) was revoked, and a new one granted with new conditions (January, 1615–16); but infractions were still

[1] Erased in MS. [2] 'Muggeridge' had been written first in MS.

complained of; and in the following year the Attorney General was directed to lay an information in the Exchequer against the infringers. There were 42 of them; and I suppose it was thought that such a host of enemies could not be successfully encountered with that weapon. For the prosecution was not pressed to a judgment; and the whole thing was put upon a new footing. It was proposed to transfer the monopoly from the patentee to the King; that the patentee should work the manufacture as the King's agent, —the profits being at the disposal of the Crown. The new arrangement, having been referred to and approved by Bacon, Montague, and Yelverton, was announced by proclamation on the 22d of March, 1617–8. On the 11th of April a new patent was granted, assigning the entire profits of the monopoly for three years to Fowles—one of the former patentees—and on the 22d commissioners were appointed to protect it. Under their authority severe measures were taken both for the discovery and for the punishment of offenders. But they were still too many; and Fowles, as we have already seen, had to petition for more help.[1] This petition (which was the subject of Buckingham's letter of August 20) had been under the consideration of the commissioners, and had been specially recommended by the King to Bacon; with directions to find some way of reconciling the differences and amending the defects of the commission, so that the agents might proceed in their work without disturbance.

What followed this, I do not find reported. But it seems that the case underwent some change. For now on the 4th of October we find the King calling for a report, not of the measures that had been taken to enable the agents to proceed, but of the fitness and conveniency and probable profit to the Crown of the whole thing; the same question which had been asked and answered before.[2]

In Bacon's letter to Buckingham, p. 341, I am unable to say whether the "Navy" business to which it relates was Admiralty or Treasury business. But I find by a letter from Lorkin to Puckering on the 5th of October that Buckingham was then reported to have "gotten the survivance of the Admiralty granted him in a joint patent with the Lord Admiral:"[3] and it seems very likely that he was training himself for the office, which he had refused on the ground of inexperience not long before, and undertook not long after. Chamberlain, writing on the 24th, gives some particulars of the arrangement made by the Commission of the Navy "lately finished," which may

[1] See above, p. 325.

[2] For a full history of this patent see a communication from Mr. S. R. Gardiner to the Archæologia, vol. xli.

[3] Court and Times of James I. vol. ii. p. 92.

very well be the business which Bacon speaks of. An undertaking had been given for five years to discharge it for £30,000 a year, which cost £56,000 or thereabouts hitherto, and during that space to repair two and build two new ships every year, and from that time forward to reduce the charge of the Navy £20,000.[1]

The two remaining letters will sufficiently explain themselves.

To the Lord Chancellor.[2]

My honourable Lord,

His Majesty is desirous to be satisfied of the fitness and conveniency of the gold and silver thread-business, as also of the profit that shall any way accrue unto him thereby. Wherefore his pleasure is that you shall with all convenient speed call unto you the Lord Chief Justice of the King's Bench, the Attorney-general and the Solicitor; and consider with them of every of the said particulars, and return them to his Majesty, that thereupon he may resolve what present course to take for the advancement of the execution thereof. And so I rest.

Your Lordship's faithful servant,

G. Buckingham.

Theobalds, the 4 of Octob. 1618.

To the King.[3]

May it please your most excellent Majesty,

According to your Majesty's pleasure, signified to us by the Lord Marquis Buckingham, we have considered of the fitness and conveniency of the gold and silver thread business, as also the profit that may accrue unto your Majesty.

We are all of opinion that it is convenient that the same should be settled, having been brought hither at the great charge of your Majesty's now agents, and being a means to set many of your poor subjects on work; and to this purpose there was a former certificate to your Majesty from some of us with others.

And for the profit that will arise, we see no cause to doubt; but do conceive apparent likelihood, that it will redound much to your Majesty's profit, which we esteem may be at the least £10,000 by the year; and therefore in a business of such benefit to your Majesty, it were good it were settled with all con-

[1] Chamberlain to Carleton, 24 Oct. 1618. S. P. Dom. vol. ciii. no. 45.

[2] Harl. MS. 7006. f. 96. Orig. Docketed (partly in Meautys's hand) "4 Oct. 1618. My Lo. Marq[s] to yo[r] Lop. touching the patent of gold and silver thread."

[3] Stephens's second collection, p. 90.

venient speed, by all lawful means that may be thought of, which notwithstanding we most humbly leave to your Majesty's highest wisdom.

Your Majesty's most humble and faithful servants,

FR. VERULAM, Canc.

H. MONTAGU. HENRY YELVERTON.

To THE MARQUIS OF BUCKINGHAM.[1]

My very good Lord,

What passed in your Lordship's presence your Lordship can tell touching the Navy. The morrow following we concluded in approbation of the books, save in one point, touching the number convenient for manning the ships; wherein the number allowed by the commissioners had in my judgment a little of the merchant. For to measure by so many as were above dead pays, is no good argument. For the abuse of dead pays is to be amended, and not the necessary number abated. In this his Majesty may fall upon a middle proportion between that of the commissioners and that of the officers.

It were good, now the three books which we have appointed to be ingrossed into one ledger-book are affirmed, there were a short book of his Majesty's royal directions and orders thereupon, extracted.

For the Commission of the Treasury, I persuade myself they are of the first hours that have been well spent in that kind. We have put those particulars whereof his Majesty gave us charge into a way.

Bingley's information will be to good purpose, and we find another of like nature revealed to Mr. Secretary and myself. God ever prosper you.

Your Lordship's most obliged friend
and faithful servant,
FR. VERULAM, Canc.

9 Oct. 1618.

To THE MARQUIS OF BUCKINGHAM.[2]

My very good Lord,

Looking for matter of service, I have found out a suit for

[1] Fortescue papers. Original. Own hand.
[2] Gibson Papers, vol. vi f. 97. Copy.

myself; and it is proper for me more than all men; because it is within the account of the Hanaper. But I have made a law to myself, that I will never beg anything which shall not bring a gain to the King. Therefore my suit is to farm the profits of the Alienations, yielding a thousand pounds a year more to the King than hath been yielded *communibus annis* by a *medium* of seven years. If the King be pleased to grant me this, it will a little warm the honour he hath given me; and I shall have a new occasion to be, as I ever have been, and shall be,

Your lordship's most obliged friend
and faithful servant,
FR. VERULAM, Canc.

York-house, 9th October, 1618.

TO THE LORD CHANCELLOR.[1]

My honourable Lord,

I have been desired by some friends of mine in the behalf of Sir Francis Englefeild to recommend his cause so far unto your Lordship, that a peremptory day having been given by your Lordship's order for the perfecting of his account, and for the assignment of the trust, your Lordship would take such course therein that the gentleman's estate may be redeemed from further trouble and secured from all danger, by engaging those to whom the trust is now transferred by your Lordship's order to the performance of that whereunto he was tied. And so not doubting but your Lordship will do him what lawful favour you may herein, I rest

Your Lordship's faithful friend and servant,
G. BUCKINGHAM.

7.

The next letter introduces a subject to which it is rather strange that Bacon's correspondence has not hitherto contained a single allusion. For it was a matter of great moment; much disputed in council; full of doubts and perils of the most serious kind: and followed for the last 18 months with eager popular interest:—a subject which he must have been watching from the beginning with the gravest anxiety.

We left Sir Walter Ralegh fifteen years ago in the Tower, under sentence for treason; respited, but not pardoned.[2] The conditions

[1] Harl. MSS. 7006. f. 98. Orig. Docketed by Meautys, "R^d 14 Oct. 1618. The Lo. Marq^s Buck^m to yo^r Lp. in the behalf of Sir Fr. Englefield."
[2] See Vol. III. p. 133.

of his captivity were not however very severe. They had not deprived him of his powers, nor altogether of his sphere, of action. Besides his 'History of the World,' which might be thought enough by itself to account for all his time, he had written various treatises, political and scientific; his taste for experiments in chemistry had made Bacon think of him as one who might possibly be induced to lend a hand in the Great Instauration;[1] and he had at the same time kept up his communications with the New World, and his hopes of accomplishing there some great work of colonization, conquest, or commerce. Several trading or exploring voyages had been made by his means or in his interest; and the results had enabled him to inspire others with his own belief that mines of wealth rich enough to enrich a nation were waiting there for those who had courage to find and work them. How much he knew, and how much he believed, and what kind of mines he looked for, and how he thought they were to be approached and occupied, nobody, I think, will ever find out. But one thing we may be sure he knew—that if he could persuade the King to sanction an expedition and place it under his command, he must (for the time at least) be let out of the Tower. In order to obtain so much liberty he was ready to give any security which might be proposed that he would not abuse it. With that view he had already made at least three distinct proposals: one to the Earl of Salisbury (supposed in 1607);[2] a second to Lord Haddington (supposed in 1610);[3] a third in 1611 to the Lords of the Council. None of these were accepted; but the last was framed with a view to get rid of *one* of the principal difficulties. According to this, he was not to go himself, and liberation was to be contingent on success. Two vessels were to be sent under the command of Captain Keymis in search of a particular gold mine, the locality

[1] See *Commentarius Solutus*. Vol. IV. p. 63. "The setting on work my L. of North[umberland] and Ralegh, and therefore Haryott; themselves being already inclined to experiments." (26 July 1608.)

[2] Edwards, vol. ii. p. 389. "And because it may be objected that when I have a ship [or] two or three that I may take my course some other way. . . . I am content both to come and go as a private man, and that both the charge of the ship be given to another—whom I desire might be the bearer hereof—and that he have order that if I do but persuade a contrary course, to cast me into the sea. . . . We will break no peace: invade none of the Spanish towns. We will only trade with the Indians, and see none of that nation,—except they assail us."

[3] Id. p. 392. "I am content to be committed to others; and setting down the course and project in writing, if at any time I persuade the contrary, let them cast me into the sea. Secondly, when God shall permit us to arrive, if I bring them not to a mountain (near a navigable river) covered with gold and silver ore, let the commander have commission to cut off my head there. If this be not sufficient, I will presume to nominate unto his M. such commanders as he shall like of, who will be bound, body for body, to return me alive or dead. And if I have mistaken myself and may be yet of more price, his M. shall have forty thousand pounds bond to boot."

and wealth of which he knew; on condition that if more than half a ton of gold were brought back from it he should have his liberty; if less, that he should remain a prisoner for life. The *personal* security would in this case probably have been thought sufficient. But there was another point upon which security was more indispensable, and in which all these proposals were equally defective. Security was required against breaches of the peace. And as one of the proposed provisions was that "the Spaniards were not to be attacked except themselves should begin the war," it appeared upon the face of the proposal that the place where the mine was to be sought was one where Spaniards were likely to be found. This, like the two former, was rejected; I suppose for this reason. It was necessary therefore to get rid of this provision: which was easily done by providing that there should be no Spaniards in the way; and a fourth proposal was made, soon after Salisbury's death, similar in other respects to the last—so similar indeed that it might have been taken for the same—but differing in two points: The mine was to be one which was not near to any Spanish settlement; and he was to conduct the expedition in person. This new proposal, being supported with the full weight of Winwood's authority, who was now Secretary of State, the King was persuaded to agree to. On the 19th of March 1615-6, Ralegh was allowed to leave the Tower (though still with a keeper) to make preparations, and on the 26th of August 1616, his commission was signed.

No mention was made in it of any particular mine. The enterprise was described as a voyage "unto the south parts of America, or elsewhere within America, possessed and inhabited by heathen and savage people; to the end to discover and find out some commodities and merchandises in those countries that be necessary and profitable for the subjects of these our kingdoms and dominions, whereof the inhabitants there make little or no use or estimation; whereupon also may ensue by trade and commerce some propagation of the Christian faith and reformed religion amongst those savage and idolatrous people." But though the design was not more exactly defined (probably because a definition of the *place* where the treasure was might have incited rivals to contend for it) it was well understood that the real object, or at least the real pretence, of the voyage was a particular gold mine, of the existence of which near the banks of the Orinoco Ralegh had certain knowledge, and of the ore of which he had seen and tested samples. The commission gave him all the powers necessary for a commander, and secured to him and his fellow adventurers full property in all they should bring home, with reservation of a fifth part for the Crown. By way of

security against failure of performance or abuse of commission, the tenure under which he held his life was thought enough; and when Gondomar objected to the voyage on the ground that the mine was a mere pretence, that Ralegh's real intention was some piratical attack on Spanish property on land or sea, for which the force he was to be trusted with—fourteen armed ships carrying a body of land soldiers—would give him ample means; answer was made that he durst not attempt anything of that kind, because it would be at the peril of his life. "That there might be no mistake," says Mr. Gardiner, "he was called on to give security that he would not hurt any subjects of the King of Spain, and was plainly given to understand that if these orders were transgressed he would pay the penalty with his head:"[1] and though the authority which is given for this statement does not imply that the warning had been given to Ralegh himself, but only that Winwood had declared it to be the King's known and avowed intention, it can hardly be doubted that Ralegh understood the condition well enough;[2] nor is there any reason to think that he would have shrunk from accepting it. We have seen what security he was himself ready to offer for the performance of his engagements, in case he were allowed to go in person. If he did but *persuade* a course contrary to his avowed design, the officers in charge were to "cast him into the sea." If he did not bring them to a mountain covered with gold and silver ore, they might "cut off his head."[3] It is evident therefore that he was quite prepared to run any risk of that kind: any risk, I mean, which was involved in *accepting* the condition and making the *engagement*. It does not follow that he meant the penalty to be paid: and having so many ways of escaping beyond the King's reach, I dare say he thought it very unlikely that the day would ever come when it could be demanded. But it is important to know and to remember that this was really the understanding upon which he undertook the enterprise. His commission was large enough. It did not limit him to one gold mine; nor did it require him to bring back gold at all. If he did really know of such a mine as he said he knew of, in a land not occupied *de facto* by Spaniards, there would be nothing to prevent him from bringing back enough of the produce to establish the fact; and it would be for the government to decide whether a permanent

[1] Gardiner, (P. of W. and Sp. M.) vol. i. p. 52.

[2] That he understood that he was forbidden to invade Spanish territory we have his own admission in his own journal. "I answered him [the Governor of Lancerota] that . . . I had no purpose to invade any of the Spanish King's territories, *having received from the King my master express commandment to the contrary.*" *Discovery of Guinea* (Schomburg's ed.) p. 180.

[3] See above, p. 343, notes 2 and 3.

occupation should be attempted. But it at the same time left open to him the whole field of peaceful enterprise. Anything which the natives were willing to part with he was at liberty to bring back and take four-fifths of the value. There was nothing in it to prevent him from turning his voyage to purposes of trade, discovery, colonization, or propagation of the Christian faith. The one thing which was forbidden was intrusion upon ground occupied by a civilized nation. The parts in which he was to operate were to be parts "possessed and inhabited by heathen and savage people;" a limitation carefully repeated in every clause. It has been said indeed that this limitation was futile and left everything open to dispute; for what was "possession?" how far did the rights of "occupancy" extend? And it is true that in order to answer that question satisfactorily and completely for all cases, it would have been necessary to obtain the opinion and consent of all civilized nations. It is true also that a case might easily have occurred in the execution of this very commission which would have left room for a quarrel between England and Spain. If Ralegh had found a valuable mine in some region at a distance from all Spaniards, and if the Spaniards had claimed it as their property in virtue of some distant settlement of theirs on the same coast, it would have furnished occasion for a fair diplomatic dispute, which the two nations would have had to settle as other disputes between nations are settled. In such a case the government could have had no quarrel with Ralegh. But *all* cases are not of this disputable kind. Whatever difficulty there may be in deciding whether those which lie near the limit are within or without, there are some which lie so far within that they leave no room for dispute at all. A place, for instance, which cannot be conveniently reached or safely occupied without taking military possession of a town built and inhabited by people professing Christianity,—is it or is it not a place "possessed and inhabited by heathen and savage people"? There could be no difficulty in answering that question, at any rate. If Ralegh himself had been asked before he went out—and asked in a way which obliged him to give a serious answer—what he would do if when he came to the mine he found a Spanish settlement prepared to resist him, what answer could he have given? He must have said that he would endeavour to turn his voyage to some other account; to find a mine elsewhere, to explore some other coast, or trade with the natives for some other commodity. He could not have said that he would land in spite of the Spaniards; for that was the very thing which the terms of his commission distinctly excluded. And it is possible that some such questions *were* put to him before he went. We learn

incidentally from one of Bacon's apophthegms that soon after he became Lord Keeper (which would be shortly before Ralegh sailed,) he had a long conversation with him in Gray's Inn walks.[1] We are not told what the subject was, but it must have been interesting, and was probably important, for it was then that he kept the Earl of Exeter so long waiting upstairs. And it may have been on that occasion that the passage occurred which was related to Sir Thomas Wilson long after by Ralegh himself.

"Before he went, having conference with some great Lords his friends,[2] who told him that they doubted he would be prizing if he could do it handsomely, 'Yea,' saith he, 'if I can light right on the Plate fleet you will think I were mad if I should refuse it.' To whom they answering 'why then you will be a pirate,' 'Tush,' quoth he, 'my Lord, did you ever hear of any that was counted a pirate for taking millions? They are poor mychers that are called in question for piracy, that are not able to make their peace with that they get. If I can catch the fleet, I can give this man ten thousand and that man ten thousand, and 600 thousand to the King, and yet keep enough for myself and all my company.'"[3]

This of course must be supposed to have been spoken in jest,—a playful diversion of an inconvenient question. But the apprehension that some such alternative in case of failure did enter into his contemplation was serious, and was not confined to Bacon. It is plain that Chamberlain (whose intimacy with Winwood gives more than usual importance to his impression in this matter) had no faith in the sincerity of the enterprise. On the 29th of March, 1617—the day on which Ralegh sailed from Dover for Plymouth—after mentioning some obstructions interposed or apprehended, and that the Prince was no friend to the expedition, he adds "God knows there needs no such great working to overthrow the voyage; for aught I can understand, I fear he doth but go (as children are wont to begin their tales) to seek his fortune."[4]

The difficulties were however overcome, and on the 12th of June he set sail with his squadron from Plymouth. After a tedious voyage in which he lost several of his principal officers and many of his men by sickness, and nearly died himself, he anchored in the mouth of the Caliana on the 14th of November. There he rested for a few weeks, and then assembling his fleet at the "Triangle Islands" proceeded to "embark his men in five ships for Orenoque; to wit

[1] See Literary and Professional Works, vol. ii. p. 168.

[2] In the rough note taken down at the time, it is described as "the conversation he and *my Lord Chancellor* had about taking the Plate fleet."

[3] S. P. Dom. James I. vol. xcix. no. 77.

[4] S. P. vol. xc. no. 146.

400 soldiers and sailors"—with victuals "for a month and somewhat more."[1] Of his preparations and instructions for this expedition we have his own account, written after his return to England, but before he knew on which side he would be called on to defend himself: a circumstance which does not diminish its value. From these we learn the nature of the enterprise as he understood it when he reached the scene of action. It was easy when in England to say that there were no Spaniards anywhere near the mine; but before he ventured on a landing it was necessary to ascertain the fact. Accordingly, his first inquiry seems to have been as to the forces of the Spaniards on the Orinoco. The answer he received was that a great number of soldiers had been sent thither;[2] and the first instruction he gave to the companies who were to go, was "to stay a day or two in the Shurinamo to get pilots"[3] &c., and "by the Indians of that place to understand the state of the Spaniards in Orienoque, and whether they had replanted or strengthened themselves upon the entrance or elsewhere."[4]

It is clear therefore upon his own showing that, if not *at* the mine, at least on the way to it, he apprehended encounters with Spaniards. But this might be only at the mouth of the river or on the coast. His care might be only to pass these by, on his way to a region where there were none but savages. And the plan which was *first* proposed seems to be in accordance with this view of the case. For the expedition consisting of six companies in five ships, Keymis, who was to be commander, proposed to go forward himself in a shallop with only one officer and six musketeers, and pass at once to the mine, leaving the rest below. But this, though the first, was not the *final* resolution. Whether it was given out at first only for appearance, or whether it was a design really intended by Keymis, which he would have been rash enough to execute, Ralegh took good care to countermand it before it was too late. After the enterprise had been resolved upon and the instructions given, he, "better bethinking himself and misliking Keymis's determination, gave him this order following."

"Whereas you were resolved, etc., I do not allow of that course, because you cannot land so secretly but that some of the Indians from the river's side may discover you, who giving knowledge of your passage *to the Spaniards*, you may be cut off before you recover your boats."

So there were Spaniards to be expected in the immediate neigh-

[1] Ralegh's Journal. [2] Apology, p. 80.
[3] Ralegh's Journal. [4] Apology, p. 79.

bourhood of the mine, as well as along the river. Nay there was *perhaps* a Spanish town. For he goes on—

"I do therefore advise you to suffer the captains and companies of the English to pass up to the westward of the mountains,[1] from whence you have less than 3 miles to the mine, and to lodge and encamp between *the Spanish Town* and you, if there be any Town near it; that being so secured, you might make trial what depth and breadth the mine holds, and whether it answereth our hopes."

And what if the Spaniards should interfere with the operation?

"If you find it royal, *and that the Spaniard begins to war upon you*, then let the Serjeant Major repel them if it be in his power, and drive them as far off as he can. But if you find not the mine to be so rich as may persuade the holding of it, and to draw on a second supply, then shall you bring but a basket or two," etc.

These extracts are from Ralegh's own instructions to Keymis *before* the voyage up the river had begun, as reported by himself. Can anybody maintain in the face of them that he *thought* he was sending his men to a place "possessed and inhabited by heathen and savage people" where there was no danger of hurting a Spaniard? If it be said that he did not think so *now*, because he had obtained fresh information since he arrived, but he did think so when he left England, and it was now too late to alter his course; for if the mine he had come for proved to be in a country possessed and inhabited by Spaniards, what was he to do? The answer may be given in his own words.

"On the other side, if you find that any great number of soldiers be sent into Orienoque, *as the Cassique of Calliana told us that there were*, and that the passages be fenced, so that without the manifest peril of my son, yourself, and the other captains, you cannot pass towards the mine, then *be well advised how you land;* for I know (a few gentlemen excepted)

[1] So in my copy. (Abridgment of Sir Walter Raleigh's History of the World. Also some genuine remains of that learned knight—published by Philip Raleigh Esq. the only grandson to Sir Walter. 3d edition 1702.) Other copies read "to the westward of the mountain of Aio."

From this and some other passages Mr. Gardiner justly infers that Ralegh supposed the town to be higher up the stream than the mine. How he arrives at the conclusion that he supposed it to be *as far up* as the mouth of the Coroni I do not know. The question is not however of importance; for wherever he believed the town to be it is clear that he believed the mine to be not far off. So that even if he did not know of the change of site, it makes no difference. But the fact seems to be that he supposed the mine to be many leagues below the mouth of the Coroni, and supposed also that a town had been set up within 3 or 4 miles of it; only he supposed the town to be above,—not below, as it turned out.

what a scum of men you have, and I would not for all the world receive a blow from the Spaniards to the dishonour of our nation."

If he found, contrary to his expectation, that the approaches to the mine were so possessed and inhabited by Spaniards that it could not be reached without manifest peril of a collision, then it behoved him *to be wary how he allowed it to be attempted.* That which might be done rather than *receive* a blow *from* the Spaniards to the dishonour of England, might be done rather than *inflict* a blow *on* the Spaniards to the dishonour of England.

To me it seems that these instructions in themselves make the case *as against Ralegh* complete, without even inquiring what the result of the enterprise was. They constitute in themselves a transgression of his commission and a violation of his pledge in its main feature. His commission limited him to places possessed and inhabited by heathen and savage people; he sent his men to a place which he knew to be possessed and inhabited by Spaniards. He pledged himself not to hurt any subject of the King of Spain; he sent his men up the river with instructions to fight any Spanish force which they could be sure of defeating.

That he should have been in such a hurry to produce this evidence against himself—for the 'Apology' which contains it was written (and I believe pressed upon the King's notice) during his journey to London, before any charge had been made against him and when all he knew was that he was to be called in question—can only be explained, I think, by supposing that he mistook the nature of the charge which he had to answer. He seems to have thought that the offence of which he was to be accused was only his failure to find the mine and bring back gold; and the object of the Apology was to show that, though he had failed in this, he had done his best to succeed; that the mine was there, and many other mines, well known, easy to find, and unworked; that the failure was entirely due to Keymis, who was dead; that as the whole country, in virtue of a cession from the Guianians to Queen Elizabeth, belonged to the King of England, any Spaniards who might be there were usurpers, whose towns it was no breach of the peace to take and burn; that "if we had had any peace with the Spaniards in those parts of the world" they had themselves broken it long before; and that if in this case there were any complaint of aggression, it should come, not from them, but from him,—"who landing his men in territory appertaining to the King of England, they were invaded and slain before any violence was offered to any of the Spaniards."

Now that the offer of an Indian King to resign his country to the Queen of England, on condition of being protected against the

Spaniards,—an offer made to Raleigh 20 years before, but never accepted or followed up except by occasional messages from himself "to keep them in hopes of being relieved"[1]—that the tradition of such an offer would have justified her successors in treating all Spanish settlers as enemies who might at pleasure be burned out of house and home without proclamation, notice, or parley,—and in authorizing any of his subjects to perform the operation for him,—I dare say Ralegh really believed. As a question between the two governments, he may have thought that James had a right to consider himself as in possession, and to act accordingly. But he was a statesman as well as a soldier and sailor: and he cannot have believed that where the sovereignty of a territory has not been publicly accepted, assumed, and proclaimed, it is lawful for a *subject* to take the matter into his own hands, and *without* authority from the government to invade at discretion, kill all opposers, and call it self-defence. I cannot think therefore that to justify himself against *this* charge was the real object of his Apology. Its inadequacy is too glaring. It was designed, I think, to meet a supposed accusation of a different kind. He fancied that his real offence, in the King's eyes, was not the burning of the town, but the missing of the mine. He thought that if he had brought the gold the King would not have quarrelled with him about the means employed to get it; and it was to his supposed cupidity, not to his sense of justice, that the argument was really addressed. The reasoning which so entirely fails to justify his own transgression, as against the King, is more to the purpose when applied to justify the King as against Spain in seeking the same end by similar means. Ralegh wished to make him understand, before he committed himself to any public action in the matter, what treasures lay within his reach, how lawfully he might take them, and (if he would but grant the necessary authority) how easily. As an encouragement to him to embrace the enterprise on his own account instead of punishing it, and to make it a ground of quarrel with Spain instead of acknowledging it as an injury requiring redress, it was a skilful composition. But it was built upon a mistake; a mistake as to the King's character; which Ralegh had not had good opportunities of studying. For my own part I do not believe that any quantity of gold would have reconciled James to the destruction of that town under those circumstances. He had a high respect for a King's promise, and he had pledged his word to a brother King that no such thing should happen. He had a sense of natural justice, and could see (what does not seem to have occurred to Ralegh) that

[1] Apology, p. 89.

the destruction of a town full of people who had individually committed no offence was against natural justice. He had carefully considered the terms of the commission, with a view to provide against the possibility of its being abused in this very way; and the provisions had been set at nought. These were the acts which required apology. The failure of the search for the mine was only the misfortune of the adventurers, and of small concern to the King, who had built no extravagant hopes upon it. For these acts however Ralegh unfortunately had no valid apology to offer. Had he been able to say that the search had failed because, finding when he arrived at the place that there was a Spanish settlement in the neighbourhood, he could not pursue it without transgressing his commission and breaking his pledge, he would perhaps have forfeited his popularity, but he would certainly have kept his head. No fault would have been found with him by the King. Spain would have had nothing to complain of. But this he could not do. Before his men reached the supposed place of the mine they came upon a Spanish town or village. The soldiers landed; found themselves in the neighbourhood of an armed force; attacked or were attacked (for accounts differ as to the first blow[1]); drove the Spaniards back upon the town; which was so close by, that "they were ready to enter it ere they knew where they were;"[2] slew the captains; and being shot at from the houses, set fire to the next buildings and so drove the defenders out. The town being thus occupied, a search, real or pretended (for here also accounts differ), was made for the mine; which Keymis, the only man who knew anything about it, declared to be within 8 miles: but the Spaniards were in the woods, and so far in *de facto* possession of the country that it was fatal to advance. And so after a few weeks of fruitless work they gave it up; carried away whatever they could find in the town worth taking; set fire to the buildings which they had not burned down before; and returned as fast as they could to the fleet; which after some abortive projects for redeeming their fortune in some other action, came back to England without doing anything more.

It was on the 13th of May 1618 that the King heard from Captain North what had happened. How the story was told to him we do not exactly know; but as Captain North had been with the river party all the way, the essential facts—the landing close to a Spanish settlement, the fight, the occupation, pillage, and burning of a Spanish town; and the cause of their retreat, namely that they could not dislodge the Spaniards from the woods,—cannot have

[1] None of the accounts mention any attempt at a parley.
[2] Ralegh's Apology.

been disguised. The solemn assurances which the King had given that Spain had nothing to fear from the expedition had been shamefully falsified. There could be no doubt of that. By whom it was done, and on what pretence, was yet doubtful. But the word of England had been broken; and there is no need to bring Gondomar on the scene with his 'Piratas, Piratas, Piratas,' to account for what followed. If a commission under the King's privy seal meant anything, it meant that the powers which it conferred were to be used within the limits which it prescribed. A commission had been given to certain persons, authorizing them to search for commodities and merchandises in any part of America not inhabited by subjects of any Christian power. The search had been commenced in a part of America known to be inhabited by subjects of Spain; and the first act was the burning and pillage of the nearest town. The stoutest historical and literary anti-papist, as long as he can keep this fact in his mind, will hardly maintain that the case did not demand *investigation;* and if so much be admitted, it will be impossible to object to the measure which was first taken. On the 11th of June,—not so soon as to imply any very precipitate action, but as soon probably as Ralegh's ship was reported safe in Plymouth harbour,—a proclamation came forth, "declaring his Majesty's pleasure concerning Sir Walter Ralegh and those who adventured with him." It began with a recitation of the conditions of the enterprise; then perhaps not generally known; now, I think, seldom remembered.

"Whereas we gave licence to Sir Walter Ralegh, Kn^t^, and others our subjects with him to undertake a voyage to the country of Guiana, where they pretended great hopes and probabilities to make discovery of certain gold mines, for the lawful enriching themselves and these our kingdoms; wherein we did by express limitation and caution restrain and forbid them and every of them from attempting any act of hostility wrong or violence whatsoever upon any of the territories, states or subjects of any foreign princes with whom we are in amity, and more peculiarly of those of our dear brother the King of Spain, in respect of his dominions and interests in the continent:

"All which notwithstanding, we are since informed by a common fame that they or some of them have by an hostile invasion of the town of St. Thome, being under the obedience of our said dear brother the King of Spain, and by killing of divers of the inhabitants thereof his subjects, and after by sacking and burning of the said town, as much as in them for their own part lay, maliciously broken and infringed the peace and amity which hath been so happily established and so long inviolably continued between us and the subjects of both our crowns;

"We have therefore held it fit, as appertaining nearly to our royal

justice and honour, eftsoons to make a public declaration of our own utter mislike and detestation of the said insolencies and excesses (if any such have been by any of our subjects committed) and for the better detection and clearing of the very truth of the said common fame, we do hereby straitly charge and require all our subjects whatsoever that have any particular understanding and notice thereof, upon their duty and allegiance which they owe us, immediately after publication of this our pleasure to repair unto some of our Privy Council and to discover and make known unto them their whole knowledge and understanding concerning the same, under pain of our high displeasure and indignation, that we may thereupon proceed in our princely justice to the exemplary punishment and coercion of all such as shall be convicted of so scandalous and enormous outrages."[1]

A manuscript copy of this Proclamation in the Record Office is dated 9th of June. But the date given by Rymer, which I suppose to be that of publication, is the 11th; a date coinciding so nearly with the news of Ralegh's arrival in England, as to suggest a connexion between the two. The exact day indeed when the Destiny anchored in Plymouth harbour does not seem to be known.[2] But we know that she had been arrested by order of the Vice-Admiral of Devon *before* he received orders from the Lord High Admiral to apprehend Ralegh himself; which was on the 12th of June;[3] and I suppose it had been thought prudent to keep the proclamation back till his arrival, lest it should supply him with an additional motive for seeking a foreign port. What effect it had upon him when he first heard of it, we are not informed. Our information, such as it is, comes from Captain King, as quoted by Oldys.[4] But if Captain

[1] Rymer. xvii. 92.

[2] Mr. Edwards makes it the 21st of June. But if he inferred it from Contarini's letter of that date (as I suspect he did) he forgot to translate new style into old—21 into 11.

[3] "By a letter bearing date the 12th of June from the Right Hon^ble the Lord High Admiral of England I had the first commandment given me for the apprehension of Sir Walter Ralegh, Kn^t: whose ship *formerly had been* by Thomas Harding, a public notary and my deputy at Plymouth, *by my command arrested.*" *Stucley's Apology.* That his arrival was fresh news on the 11th we have the evidence both of Contarini and Salvetti.

[4] "Captain Samuel King's narrative of Sir W. Ralegh's motives and opportunities for conveying himself out of the kingdom. With the manner in which he was betrayed. MS. 2 sheets fol. 1618." This is the title of the paper as given by Oldys (p. 513). What the contents were it is impossible to infer from his manner of citing them: for though in a few places where he uses inverted commas I presume that he quotes the words, in the greater part he only gives the substance; and the style in which he translates the substance of another man's words into his own does not usually convey a good idea of the original. Mr. Edwards refers to the narrative in his margin (p. 654) as if it were in the British Museum, but without saying where; and I suspect by accident. For he does not appear to know more about it than may be learned from Oldys; and I find on enquiry at the Museum that nothing is known there of any such paper.

King's story and Sir Lewis Stucley's dates are both correct,[1] he can have lost no time in leaving Plymouth. For Stucley, going it seems in haste,[2] for he had at first only a verbal commission—setting out the day after the date of the Proclamation, and travelling probably about as fast—met him (according to Captain King) at Ashburton: twelve miles to the north-east of Plymouth: on his way—whither? *Perhaps* to London, to report himself. That no doubt would have been the right thing for him to do. Perhaps to some other port. Who can say? The question does not seem to have been asked. Stucley told him what his orders were; but though he had come in haste he appeared to be in no hurry: and having to look after the Destiny and her contents (for an account of which to the Crown he was, I suppose, by his office responsible) he began by taking Ralegh back with him to Plymouth. Ralegh, we must suppose, seemed quite willing to attend him; for very little constraint was put upon him for several days.[3] But the arrest was a warning that he would be called upon to answer for his part in the conduct of the enterprise; and whatever may have been his intention in going to Ashburton, there is no doubt that from the time when he returned to Plymouth he meant to escape out of England if he could. I need not describe here the measures which he took for this purpose, which we shall find a little further on related in detail. It will be enough for the present to say that he had remained for above a month at Plymouth in Stucley's custody, who was busy about other things; when at last, upon a peremptory message from the Council, dated 25 July, requiring that he should be brought without further delay, he began his journey to London:—that he arrived at Salisbury on the 27th:—that while there he contrived to make himself look so ill, that Sir John Digby (who was with the Court, which arrived at Salisbury in "progress" on the 1st of August) obtained leave for him to go to his own house for a few days on his arrival in London:—that he used the opportunity for another attempt to escape; but being detected, outwitted, and intercepted by Stucley (whose connivance and help he had endeavoured

[1] If Mr. Edwards has Captain King's authority for dating Ralegh's departure from Plymouth towards Ashburton (before Stucley's arrival) in the second week in *July*, the two can hardly be reconciled. But I think somebody must have mistaken June for July.

[2] "For it seems that his haste was so great, and his heart so set upon some supposed purchase, that he could not stay for a warrant." Captain King's narrative, as quoted by Oldys. Ralegh's works, vol. i. p. 519.

[3] "For nine or ten days Sir Walter remained at the house of Sir Christopher Harris at Plymouth. *Two or three of them passed without his ever setting eyes upon his custodian.*" Edwards, vol. i. p. 654; who, however, objects to their being described as days "before he was under guard;" as we shall see presently.

to secure by a bribe), was on the 9th of August lodged in the Tower: and that it was during this journey from Plymouth that he wrote his 'Apology.'

The Councillors appointed to examine and report upon the case were Abbot, Bacon, Worcester, Cæsar, Naunton, and Coke. Bacon came up from Gorhambury on the 17th of August; on which day the first of many meetings was held.[1] But the history of their proceedings (of which our knowledge is at best imperfect and fragmentary) has had great darkness thrown upon it by an unlucky oversight in a work generally of high authority. In the Camden Miscellany for 1864 a paper appears with this heading: "*Proceedings of the Privy Council against Sir Walter Raleigh: Aug.* 17, 1618." It is a note of Sir Julius Cæsar's, to which attention was first drawn, I believe, by Mr. Jardine in the Library of Entertaining Knowledge, and well worth publishing. But it belongs to a much later date—nine weeks later at least. It is true that at the top of one of the columns of the manuscript—not the *first* column however but the last—the date "17 Aug. 1618" had been written; and below it the words "S^r^ Walter Ralegh Kn^t^." But the transcriber failed to observe that both date and words had been afterwards carefully crossed out, and were evidently meant for another occasion. Sir Julius had no doubt *prepared* the sheet for the meeting of 17 August (the business of which was the *examination* of Ralegh, not the proceedings against him); but he had not used it. Another day, finding this paper blank (all but the heading) he turned the unwritten side uppermost, and filled column after column with his notes, till he came to what was *now* the last;[2] where encountering the old heading, he simply crossed it out and wrote on. It is plainly no part of the paper in question, and can only be admitted as evidence in confirmation of what we know otherwise—that on the 17th of August the case of Sir Walter Ralegh, and probably Sir Walter himself, was to come before the Commissioners.

Of their further proceedings we have no formal record: but all the incidental notices which have come down to us seem to show

[1] See a letter from the Archbishop to Sir Thomas Lake—from Royston, 14 Aug. 1618: which states that the Lords cannot meet till Monday next, [the 14th was a Friday] in the afternoon: that the Lord Privy Seal [Worcester], the Lord Carew, and Sir Edward Coke were to be written to; that Sir W. St. John, Sir Lewis Stucley, and the rest were to be commanded to attend at Whitehall on Monday after dinner. "I hear," he adds, "that my L. Chancellor mindeth to be with us at London on Monday." S. P. Dom. vol. xcviii. no. 82.

Camden's *Anyalium Apparatus* seems to place the first meeting earlier, but I do not think the authority so good. "12 Aug. *Cancellarius et alii consiliarii sæpius conveniunt et examinant Gualterum Raleighum.*"

[2] For a fuller description of the manner in which the sheet was folded, see further on, p. 365.

that they went about their work in the regular way. The first thing was to hear what Raleigh himself had to say. The points on which he was to be questioned were set out in articles drawn up either by the King or under his direction or with his concurrence, and the Commissioners repaired to the Tower from time to time to examine him. We learn by a letter from one of Carleton's correspondents that on the 4th of September he was examined *for the third time* "upon articles sent from the King."[1] Each of these examinations would no doubt suggest questions to be put to other witnesses; and as there were reasons for suspecting him of many underhand practices, which the King thought it important to unravel, as bearing upon the loyalty both of servants and allies, it is not surprising that the investigation lasted long. Besides the formal examinations taken by the Commissioners, of which a few have fortunately been preserved,[2]—though I think only by collectors for the sake of the signatures; for I do not find that their historical importance has been perceived by any of those who have seen them—an endeavour was made to come at the truth another way. A keeper was appointed to attend Raleigh in the Tower with instructions to observe all that he said and did, and acquaint the Commissioners with anything that occurred worth reporting. Sir Thomas Wilson was appointed to this office on the 10th of September[3] and continued in the execution of it till the 15th of October; when he was released upon his own representation (made ten days before) that there was

[1] Pory to Carleton 5 Sept. 1618. S. P. Dom. vol. xcix. no 3.

[2] See especially the examinations of William Herbert, Esq., Captain Roger North, and Captain John Chudleigh, taken on the 17th of September, upon these questions following; which show unmistakably what the points were which the Government thought it of most importance to ascertain, after a month's investigation. 1. Whether Sir W. Raleigh did really intend a mine, or did pretend it only to abuse the State and draw followers. 2. Whether Sir W. R. appeared to the examinate to have former knowledge that the country of Guiana where the mine was was inhabited by the Spaniards. 3. Whether the assault on the town of St. Thome was any ways directed and avowed by Sir W. R. or whether those that were sent for the discovery of the mine did not incidently assail the same. 4. Whether the examinate knoweth that Sir W. R. had or expected any commission or aid from France, and whether he had not some intention to go into France after the dissolving of his voyage, and what should be his employment there.

[3] His instructions were "to keep him safe and close prisoner in the condition as he was committed, not suffering any person to have access to him or to have speech with him except in your hearing, nor any at all but such as of necessity must attend him for his diet and such ordinary occasions as close prisoners usually have, and not otherwise. And whatsoever you shall observe worthy of our advertisement to acquaint us with it from time to time as becometh you." S. P. Dom. vol. xcix. no. 7.

Of the secret history of Sir Thomas Wilson's employment as expounded by Mr. St. John in his life of Ralegh (vol. ii. p. 297)—a speculation worthy of a place in the Great Oyer of Poisoning—I shall only say that the book must not be judged by that specimen. Mr. St. John is at all times prone to assume that a man who differs with another intends to kill him, and when one whom he favours dies, he requires no other evidence, beyond the fact that there was a difference, to

no chance of learning anything more. The preliminary investigation being therefore now complete, the question was how to proceed.

Many points remained obscure. But those which were doubtful, and about which so much time had been spent, were of small consequence compared with those about which no doubt could be. Whether Ralegh believed in the existence of the mine which was the professed object of the voyage; whether he had negotiated with the French for assistance or for an asylum; whether he *would have* left the river party to their fate, *if* his officers had consented; whether he *would have* betaken himself to piracy, *if* his men had been willing; what devices he employed or meditated for effecting his escape; and what he said about the King,—these are questions which do not much concern the main point. Whatever he *would* have done, he did in fact stay for the return of the river party; and he did *not* commit or sanction any act of piracy except the taking of the town beside the mine. For a man in his position to try to escape cannot be called a crime; and if he could not manage it without resorting to false pretences, to visit him with severe censure on that account would be to judge him by a higher standard of morals than he ever professed or his greatest admirers ever gave him credit for. If as soon as he was safe from pursuit he had transferred himself to a French ship, leaving his squadron to the second in command to choose its course and seek its fortunes, few people would have thought the worse of him. It would have been an act of "contempt," and justified closer restraint and greater severity in case of recapture: but no one would have called it a crime for a man in his case to deceive and outwit the King in a plot for the recovery of his own

indicate and convict his murderer. And how shy he is of exhibiting the facts upon which his conclusions rest, may be seen in his treatment of the Winchester trial; the entire *business* of which is despatched in about thirty lines; from which (except the general heads of the indictment) nothing whatever can be gathered or guessed as to the particulars either of the charge or the evidence or the answer. But where he does descend to facts, and reports them upon evidence which he has personally examined, he generally does better. In this case he appears to have relied upon "a collection of documents" placed at his disposal by a distinguished literary artist, who had made it for his own purposes. (See Preface p. ix.) If it was a collection of *copies*, it would of course have its own value whatever use it was designed for, and Mr. St. John would be answerable for his inferences. But *were* they copies? Were they not rather notes and sketches—passages of history "collected" by the writer from what he had seen or heard of the documents? With nothing before him but the contents of the correspondence as indicated in the Calendar, a man of bold imagination that way inclined might possibly find traces in it of a secret purpose to get rid of Ralegh by assassination. But I think no strength of imagination could make any man fancy such a thing who had read the correspondence itself. Mr. St. John seems also to have adopted the style as well as the ideas of his distinguished correspondent. It is not a style which two men working independently could fall into; and though it crops up here and there in other parts of his book, it strikes me as not in his own natural manner, which (as far as *style* goes) is good.

liberty, so long as the means employed were innocent towards others. But where a man may be excused for breaking a window to escape from confinement, he cannot be pardoned for committing a murder or setting a house on fire. And the act of which Ralegh stood convicted by his own admission, as well as by the uncontradicted evidence of all the witnesses, included the committing of many murders and the setting on fire of many houses; besides a distinct breach of his own faith pledged to the King, involving a breach of the faith of England, pledged to a neighbour with whom she was at peace. Englishmen seem to find a difficulty in understanding the true character of this act. Ralegh himself could see no more harm in burning a town than in carrying away a basketful of ore out of an unopened mine. If the territory did not belong of right to the King (he pleaded) what right had he to take the gold? If it did, what wrong did he commit in burning the town?[1] Jardine calls the charges "frivolous (p. 487), vague, and senseless" (p. 519); and in relating the fact (p. 481), though he mentions the skirmish, and that the Spaniards were driven from St. Thome, forgets to mention the burning and pillage which followed,—regarding it apparently as an immaterial circumstance. Even Mr. Gardiner, who fully acknowledges the iniquity of the whole proceeding, does not appear to consider the killing and burning as any aggravation; for he can see no difference between the guilt of the King in granting the Commission and the guilt of those who made that use of it.[2] Yet it is quite certain that the King did not either intend or anticipate any aggression upon Spaniards: and a man cannot be thought *morally* guilty of an act which he neither meant nor foresaw, however he might be legally answerable. It is possible however by a very simple device to bring the true character of the act home to any Englishman. Let him only imagine an English settlement treated in the same way upon similar pretences by a Spaniard. He will see at once that it is a crime for which somebody should be punished, and he will probably be of opinion that the person who should be punished is the person by whose authority it was done.

Now Ralegh, though he might possibly have succeeded in trans-

[1] "Either the country is the King's, or it is not the King's: if it be our King's, *I have not then offended.* If it be not our King's I must have perished if I had but taken gold out of the mines there, though I had found no Spaniard in the country." Apology, p. 90.

[2] If he pardoned Ralegh, ... he must announce to the world that he was regardless of his plighted word; . . . . . If he sent Ralegh to the scaffold, he was condemning himself for the part which he had taken, in spite of the warning of Gondomar, in promoting an enterprise, of which he now bitterly repented. *If justice demanded the execution of Ralegh, it also demanded his own.*" P. Charles and the Spanish Marriage, vol. i. p. 141.

ferring the responsibility to somebody else, was undoubtedly the person responsible in the first instance; for the thing was done under his instructions. "The most thou canst expect," said the King to Lord Carew interceding in his behalf, "is that I should give him the hearing:" "and indeed a legal hearing" adds Lorkin in reporting the dialogue "is all that Sir Walter's well-wishers desire: for then they make no doubt but he will make his case good against all accusations in this kind whatsoever."[1] But a legal hearing in this case involved a great, and I think an unexpected, difficulty. That Ralegh's life was by law absolutely at the King's mercy, was a fact clearly understood and well remembered. It was the security under which he was held to keep faith with the King; and it was thought that it would keep him true. But how the forfeiture was to be exacted in case he failed, was a question which does not seem to have been sufficiently considered. Though by law the sentence of death, which had been only respited, could be carried into execution whenever the King chose, to put him to death for the old offence, after thirteen years of imprisonment employed as he had employed them, was a thing not to be thought of. He could only deserve death by an entirely new crime. But supposing him to commit a new crime, and one for which death was the just penalty, how was he to be convicted of it? Sense and natural justice would answer, by the verdict of a jury after a regular trial. But law said no. The lawyers, with Sir Edward Coke at their head, all agreed that the King might legally behead him, but could not legally put him upon his trial. There was nothing to prevent the King from instituting any inquiry into the case that he desired, from taking the evidence of any number of witnesses, or from hearing the prisoner's defence upon every point, and so qualifying *himself* to say whether he was guilty or not guilty. This had already been done privately by the Commissioners; and might be done over again in public. But he could not have him indicted in due form of law, and so obtain the verdict of a jury.

Such was the case which was now referred to the Commissioners, for advice how to proceed: and the next letter contains their answer. The only copy of it that I know of is among the Gibson papers at Lambeth, from which it was printed by Birch; and being dated from York-house and included among Bacon's letters in all subsequent editions, it has been generally taken for his composition. But the manuscript, though called a copy, is in fact a draft; a rough draft in the handwriting of Sir Edward Coke: and as it is impossible to suppose that Coke wrote it to Bacon's dictation, the inference is that

[1] Lorkin to Puckering, 30 June 1618. C. & T. vol. ii. p. 78.

the task of framing the answer to the King had been deputed to him, as the highest authority on such a question—and that the letter (though representing, of course, the result of previous conferences, and concurred in by the rest of the Commissioners) was drawn up by himself.

To the King.[1]

May it please your most excellent Majesty,

According to your commandment given unto us, we have, upon divers meetings and conferences, considered what form and manner of proceeding against Sir Walter Ralegh might best stand with your Majesty's justice and honour, if you shall be pleased that the law shall pass upon him.

And first, we are of opinion, that Sir Walter Ralegh being attainted of high-treason (which is the highest and last work of law), he cannot be drawn in question judicially for any crime or offence since committed. And therefore we humbly present two forms of proceeding to your Majesty: the one, that[2] together with the warrant to the Lieutenant of the Tower, if your Majesty shall so please, for his execution, to publish[2] a narrative in print of his late crimes and offences; which (albeit your Majesty is not bound to give an account of your actions in these cases to any but only to God alone) we humbly offer to your Majesty's consideration, as well in respect of the great effluxion of time since his attainder, and of his employment by your Majesty's commission, as for that his late crimes and offences are not yet publicly known.

The other form (whereunto, if your Majesty so please, we rather incline) is that where your Majesty is so renowned for your justice, it may have such a proceeding as is nearest to legal proceeding; which is, that he be called before the whole body of your Council of State, and your principal Judges, in your Council-Chamber; and that some of the nobility and gentlemen of quality be admitted to be present to hear the whole proceeding, as in like cases hath been used. And after the assembly of all these, that some of your Majesty's Councillors of State that are best acquainted with the case should openly declare, that this

[1] Gibson Papers, vol. viii. f. 21. Draft in Sir E. Coke's handwriting. Docketed "October 18, 1618. Copy of a letter to his Ma. touching Sir Walter Rawleigh."

[2] So in MS. I think.

form of proceeding against Sir Walter is holden for that he is civilly dead. After this your Majesty's Counsel Learned to charge him with his acts of hostility, depredation, abuse as well of your Majesty's commission as of your subjects under his charge, impostures, attempt of escape, and other his misdemeanors.

But for that which concerns the French, wherein he was rather passive than active, and without which the charge is complete, we humbly refer to your Majesty's consideration, how far that shall be touched.

After which charge so given, the examinations read, and Sir Walter heard, and some to be confronted against him, if need be, then he is to be withdrawn and sent back; for that no sentence is, or can be, given against him. And after he is gone, then the Lords of the Council and Judges to give their advice to your Majesty, whether in respect of these subsequent offences, upon the whole matter, your Majesty if you so please, may not with justice and honour give warrant for his execution upon his attainder. And of this whole proceeding we are of opinion that a solemn act of council should be made, with a memorial of the whole presence. But before this be done, that your Majesty may be pleased to signify your gracious direction herein to your Council of State; and that your Counsel Learned, before the calling of Sir Walter, should deliver the heads of the matter, together with the principal examinations touching the same, wherewith Sir Walter is to be charged, unto them, that they may be perfectly informed of the true state of the case, and give their advice accordingly. All which nevertheless we, in all humbleness, present and submit to your princely wisdom and judgment, and shall follow whatsoever it shall please your Majesty to direct us herein with all dutiful readiness.

Your Majesty's most humble,
and faithful servants, etc.

York-house, this 18th
of October, 1618.

Though this letter is very well known, its importance as an evidence of the opinion of the commissioners upon the case has not I think been sufficiently observed; probably because of the obscurity which has hitherto hung over the *dates* of their proceedings. But it will now be seen that *after* a thorough investigation of the

charges and the evidence, they were prepared to recommend a form of proceeding in all essential respects public and judicial: the audience to consist of the Council, the Judges, and some of the nobility and gentry: the charges to be preferred, the evidence produced, and the defendant heard in reply, exactly as they would have been in an ordinary trial: the decision to be taken by advice of the Council and Judges publicly given: and a formal record to be made of the whole proceeding. *They* must have thought therefore that it was a case which would bear public criticism: and a close tribunal cannot give better proof of the sincerity of its judgment than by desiring to submit it to an open one.

The recommendation was adopted in part: but unfortunately with the omission of that which was most material in it—the provision for publicity. Why their advice was not followed altogether, has hitherto been matter of conjecture; but can now be explained on authority. Among the papers recently discovered by Mr. Fortescue there is the draft of the King's answer to this letter. It it is written in the hand of Packer, Buckingham's secretary, and has no signature or docket. But as it agrees exactly with what followed, we need not doubt that it is a true copy.[1]

"Right trusty and well beloved Counsellors, we greet you well. We have perused your letter touching the proceeding with Sir Walter Raleigh, in both which courses propounded by you we find imperfection. As first we like not that there should be only a narration set forth in print of his crimes, together with our warrant for his execution. And secondly for the other course of a public calling him before our Council, we think it not fit, because it would make him too popular, as was found by experiment at the arraignment at Winchester, where by his wit he turned the hatred of men into compassion of him. Secondly it were too great honour to him to have that course to be taken against one of his state which we have observed never to have been used but towards persons of great quality, as namely the Countess of Shrewsbury and some such. Besides it would make too great a stir to have such sending of advice and directions to and fro as you mention in your letter. We have therefore thought of a middle course, That he be called only before those who have been the examiners of him hitherto, and that the examinations be read, and himself heard, and others confronted with him, who were with him in this action. And that our Attorney and Solicitor be employed to inform against him, [touching his acts of hostility, depredation, abuse as well of our commission as of our subjects under his charge, his imposture, attempt of escape, and other his misdemeanours].[2] Only for the French we hold it not fit that they be named but only by incident, and that very lightly,

[1] Fortescue Papers. Rough draft, I think in Packer's hand.
[2] The words within brackets are interlined in the MS.

as that he should have escaped in a French bark [without drawing them into the crime.][1] And then after the sentence for his execution which hath been thus long suspended, a declaration be presently put forth in print, a warrant being sent down for us to sign for his execution."[2]

It is a letter very characteristic of the King, and it was quite true that Ralegh's wit was a formidable weapon to encounter in the court of popular opinion; especially where so many were disposed not only to excuse but to applaud the very offence which was to be laid to his charge. But it was a danger which could only be overcome by being met. On the former occasion it was really his own wit that won his triumph; for the popular feeling was against him; and if the trial could on any plausible pretext have been conducted with closed doors, no voice would have been heard on his behalf. But now very little wit was wanted to make his cause gracious; and whether his defence was conducted by himself or by others for him, the closing of the doors was enough in itself to make it triumphant with the people outside. Surely James was never worse advised than when he rejected that part of the advice of his commissioners. A formal proceeding like that which they recommended did take place *before themselves.* The charges were opened and explained by the Attorney and Solicitor General; the depositions of the witnesses that had been examined were (I presume) read: Sir Walter was heard in his own defence: and some of his fellow-voyagers were produced in person to confront him. But there was no audience, no judges, no declaration of the reasons which made this unusual form of proceeding necessary, no application to the Council for advice, no public record of the proceeding. So that for explaining and justifying to the people an act which at the best must be unpopular, it was absolutely of no use. So useless indeed it was that I do not find it so much as alluded to afterwards; and if it had not been for the accidental preservation and discovery of Sir Julius Cæsar's notes of the day's work, we should not have known that any such thing had been. It informed the commissioners of what they knew already. It may possibly have brought to their knowledge some things which had escaped them. But it added no grain of weight to the value of their report in the eyes of the people, to whom the true grounds of the proceeding—the "late crimes and offences"—were (as the commissioners

[1] The words within brackets are struck out in MS.

[2] On the other side of the leaf is written, "Wherein we hold the French Physician's confession very material, as also his own and his consorts' confession, that before they were at the Islands he told them his aim was at the Fleet, with his son's oration when they came to the town, and some touch of his hateful speeches of our person."

took care to remind the King) as yet unknown. To us who know a great deal more than the people then knew, and yet not nearly so much as we could wish, Sir Julius's notes are of considerable value and would be of very great value if they were a little fuller and did not break off at the most interesting part. But they give merely the heads, nakedly set down for the assistance of his own memory; and all we can learn from them is the order of the proceeding and the principal topics, up to a certain point. For though the thing has not been noticed (so far as I know) by any one else, it is evident to me that what we have is only the first sheet, and that the rest has been lost. And I think this would have been evident to anybody, if he had examined the manuscript carefully, and observed how the paper had been folded, and in what order the pages presented themselves to the writer. Take a sheet of letter-paper; double it crosswise; double that again lengthwise; and begin your notes upon the column which then lies uppermost. When that is full, take the next which meets you as you turn the leaves without cutting them; and then the next; and so on, till on coming to the seventh you find it already written on. If you want more, open the sheet into its original state—the folio of four pages—and you will find two columns left blank in the middle. When these are filled, one side of the paper will be full. It appears to have been Sir Julius's ordinary practice to take his notes in this way; and when he had used up that side of his first sheet to take a second. In the bound volume the order of the columns (which are not numbered) is not at first obvious, because each sheet is spread out into a single leaf. But it will be found on examination that in this case the last sentence is at the end of the last column.

From what remains of these notes we learn that the charge was distributed into three general heads: "Faults committed before his going this last voyage. Faults committed in his voyage. Faults committed since:"—that of these the two first were set forth by the Attorney-General, and the third by the Solicitor:—and that then Ralegh gave his answers upon all the points in succession.

Of the speeches of the two lawyers it is not necessary to say anything here. They represent the case as understood by the commissioners, and of this we shall have, in the official "Declaration" which was put forth a few weeks later, a perfect exposition. But the note of Ralegh's answers, though very meagre, tells us something which we do not otherwise know, and is worth printing entire: the rather because those who have undertaken to give the effect of his reply have seen more in it than I can find.[1]

[1] "To these frivolous charges Sir W. Ralegh *calmly* answered, etc. He appears

"SIR WALTER'S ANSWER.

1. That he verily thinketh that his Majesty doth in his conscience clear him of all guiltiness for his fact of an. 1. And that he hath heard that the King said that he would not be tried by a Jury of Middlesex. Archelaus[1] in the 2 book of Maccabees his speech—"That [if] he had been amongst Scythians he had not been condemned."

That Dr. Turner told him that Justice Gawdy upon his death-bed said that the justice of England was never so depraved and injured as in the condemnation of Sir Walter Ralegh.

ANSWER TO MR. ATTORNEY'S 4 OBJECTIONS.

1.[2] He intended a mine, carried refiners and tools to his charge of 2000*l.* with him, and trusted Captain Kemish, in whom also they confided, to find the mine, and the force he sent was not to invade them of St. Thomas, but to keep between them and the mine, lest the Spaniards should interrupt them in their search and work.

3.[3] He abandoned not his men, as is reported by Sir John Ferne, nor to have gone away and left them in the Indies.

2.[4] He denieth it.

4.[5] He denieth it.

HIS ANSWER TO MR. SOLLICITOR'S OBJECTIONS.

1, 2.[6] He sought not to escape till his arrest by Sir Lewis Stukeley, and afterwards he confesseth to have endeavoured to escape.

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to have evinced in these examinations *the same spirit and eloquence and the same remarkable moderation and temper* which he had displayed in his trial at Winchester." (Jardine, p. 488.) "*He was never at a loss*, and he threw the main force of his address upon the weak points in the prosecution. He *indignantly* repudiated the supposition that the mine had no real existence," etc. Gardiner, ii. p. 142.

[1] Menelaus. See II. Maccabees, chap. iv. v. 47. But the note seems to be otherwise incorrect; for Menelaus was not unjustly condemned, but unjustly *acquitted*. "Of these matters therefore there was an accusation laid against Menelaus. Now when the King came to Tyrus three men that were sent from the Senate pleaded before him: but Menelaus, being now convicted, promised Ptolemee the son of Dorymenes to give him much money if he would pacify the King toward him. Whereupon Ptolemee taking the King aside unto a certain gallery, as it were to take the air, brought him to be of another mind: insomuch that he discharged Menelaus from the accusations, who notwithstanding was cause of all the mischief, and those poor men who, *if they had told their cause, yea, before the Scythians should have been judged innocent*, them he condemned to death. Thus they that followed the matter for the city and for the people and for the holy vessels did soon suffer unjust punishment. . . . And so through the covetousness of them that were of power Menelaus remained still in authority, increasing in malice and being a great traitor to the citizens." It is difficult to guess from the form of the note how Ralegh applied the passage. It seems to be a precedent of a King persuaded by a corrupted councillor to condemn an innocent man to death.

[2] "That he never intended a mine."

[3] "He abandoned and put in danger all his company."

[4] "He purposed to set war between the 2 Kings of England and Spain."

[5] "His unfaithful carriage to the King and his company."

[6] "1. His purpose of flight before commandment laid upon him.
2. His endeavouring to fly after the arrest upon him."

3.[1] Fatetur facinus qui judicium fugit, vel simulat se fatuum vel insanum, cum non sit, ad fugiendum judicium. Sir Walter did confess it, excusing himself therein by the example of David being with King Achis and feigning himself mad.

4.[2] Confesseth that he said that his confidence in the King deceived him, but denieth that he used any other ill speeches about the King.

And being confronted with Captains St. Leger and Pennington confessed that he proposed the taking of the Mexico fleet if the mine failed.

See the letter dated 12 July 1611 in the counsel book."[3]

This brings us to the end of the sheet: but it can hardly have been the end of the proceeding. That there is no mention anywhere of the reading of examinations, which was certainly intended to follow the charge, may perhaps be explained by supposing that Sir Julius did not want any note of them, seeing that he had access to the originals. But this abrupt transition, after the *Solicitor's* objections had been all answered, to the production of Captains St. Leger and Pennington upon a point touched in the *Attorney's* speech and near the beginning of it, would be best accounted for by supposing that after they had heard his answers to all the charges, they proceeded to reply to them again by producing and re-examining the witnesses. The Attorney's second objection—that Ralegh "purposed to set war between England and Spain"—supported by the fact that when the pillage of the town yielded little he resolved "to make his voyage upon the Mexico fleet"—he had met by a general denial. When, in answer to that, the two captains on whose authority the statement had been made were produced in person to confirm it, he (according to the "Declaration") "confessed the words, but saith that, in *time*, they were spoken after the action of the mine was defeated:" and so far Sir Julius's notes and the official Declaration agree. But then follows a material difference. If the notes are to be taken as complete, that was *all* he had to say: whereas the Declaration makes him add, that "it was propounded by him to the end to keep his men together; and if he spake it before it was but discourse at large." Now such a qualification of his confession seems to me too important to have been overlooked or omitted even in the most cursory note; and I have little doubt that it would have been found in the beginning of the next sheet, followed by other evidence and answers of the same kind:[4] and lastly by the sentence (for it is

[1] "His impostures to deceive the King and State."

[2] "His vile and dishonourable speeches, full of contumely to the King."

[3] Lansd. MSS. 142. f. 396.

[4] Among which I should expect to find something about the mining tools, of which Napier makes a point of some importance. "It was distinctly asserted," he

evident that the King meant the proceeding to end with a sentence) —that is, by a declaration of the Commissioners that in their opinion the former sentence might under the circumstances be justly carried into execution.[1] But if my speculation be correct, the conclusion must remain a matter of conjecture until the lost sheet or sheets of Sir Julius's notes shall be found. In the mean time it will be seen that, though we have here evidence of one important admission, there is little else in these notes which throws any fresh light on the case; and that as to the character of Ralegh's defence, —whether it was strong or weak, plausible or unplausible—they give us no means whatever of judging.[2] The proceeding was meant to be private, and its privacy was strictly and successfully preserved. But it took away all its value.

Nor was the King much more fortunate with the alternative proposal of the Commissioners. *They* recommended, if there might

says, by Ralegh in reply to Yelverton that he incurred an expense of 2000*l.* in providing both "miners and instruments of mining; an averment which, if not substantially true would assuredly have been rebutted by those of the expedition with whom he appears to have been then confronted." (Edin. Rev. April, 1840, p. 20.) Now the Declaration states, with regard to the Pioneers, that "it is testified of all parts, *and by himself confessed*, that he carried none at all;" and as to instruments for mining, that "it is true he carried some small quantity for a show, but *by the judgment of all that were in his company* nothing near sufficient for that which had been requisite for the working of the mine: which he *excused* only by saying that his men never saw them unpacked, and that the mine was not past a foot and a half underground." No doubt therefore he *was* confronted, and thereby driven upon that excuse.

[1] The letter in the Council Book,—if it was, as Mr. Gardiner suspects, the proposal made to the Lords in 1611 (see above p. 343),—may have been appealed to on either side: by Ralegh, as proving that the use of force against the Spaniards was known to be intended, "if they began the war;"—by the prosecution, as showing that a proposal implying the probability of a collision with Spaniards had been made *and rejected*. It may therefore have come in in the course of Ralegh's answer to this charge, and the important qualification mentioned in the Declaration may have followed.

[2] Mr. St. John in his Life of Ralegh refers to a letter from Julian Sanchez de Ulloa, dated 16 November 1618 (which would be 6 November according to English reckoning)—addressed to his own government and preserved at Simancas, —in which he seems to have given from hearsay some particulars of this proceeding. From this it would appear that it took place on the 22d of October. Whether we may also infer that Ralegh's defence lasted four hours, or only that the case occupied the Commissioners so long, I am doubtful. It may be only Mr. St. John's way of writing. But I will give it in his own words. "As far back as the 22d the die was cast, though the public knew it not, for on that day Raleigh having been taken from the Tower to Whitehall, was told what had been resolved respecting him. For some particulars of what took place in *the four hours during which Ralegh pleaded for his life*, we are indebted to a foreign witness, who however has omitted others which we should have been glad to learn. . . . 'I have been told,' says Ulloa, 'that the Lord Chancellor of England censured him greatly for the injuries he had done to the vassals and territories of your Majesty, and dwelt on the manner in which he had abused the permission to put to sea granted him by this King, when his professed object was to discover a gold mine, which he had affirmed he knew where to find. In conclusion, he informed him that he must die.'" Vol. ii. p. 338.

not be a regular trial before a public audience, that the warrant for carrying the sentence into execution should be *accompanied* with "a narrative in print of his late crimes and offences." And to this the King seems in his answer to assent. But unfortunately the essential part of the recommendation—the point of *time*—was not attended to. Ralegh received notice to prepare for death on the 23d of October.[1] About the same time (I presume, for the exact date is not stated) the Judges of the King's Bench were directed to order the immediate execution of the old sentence.[2] On the 28th he was brought to the bar, and called upon to show cause why execution should not be awarded. No cause being shown which the Court held to be sufficient, execution was granted; and the next day he was brought into old Palace Yard to be beheaded. By some unaccountable mismanagement, the narrative which was to contain the justification of his execution was not forthcoming. All that was publicly known was the Proclamation, the general result of the voyage, and the proceeding of the previous day before the King's Bench; where "the *new* crimes and offences" were not allowed to be brought under discussion, and the only point argued was the validity of the old attainder. What wonder that people thought he was punished for the old offence, and were driven to strange conjectures to account for it? The just and rational course of open accusation, evidence, and defence had been declined for fear of the effect on a popular audience of Ralegh's eloquence. And yet he was left to make his last speech, under circumstances which would have ensured an indulgent hearing for the most unpopular criminal, before an audience deeply prejudiced in his favour, and utterly in the dark not only as to the evidence against him but as to the very nature of the accusation; and this too when he had the whole stage to himself; there being nobody to represent the other side; no possibility of explanation, confutation, or counteraction; and when the only way to prevent him from making himself as innocent as he pleased and working upon his hearers what impression he would, was that which would have spoken for him more eloquently still—namely to interrupt and silence him.

Perhaps it was thought that after he had spoken his last words, and it had been seen what impression they made upon the people, it would be easier to judge what kind of declaration was needed for public satisfaction. But if so, the enormous advantage which belongs to the first impression—when made upon minds predisposed to receive it favourably and unprovided with any counter-impression to

[1] Camden. [2] Jardine, p. 498.

meet it with, and then left at leisure to settle and fix itself,—must have been quite overlooked. That this state of things should have been permitted for a single day is strange. That it should have been allowed to remain undisturbed for more than three weeks, is to me one of the most unaccountable facts in history. When the Declaration came at last, it appeared that the case was at any rate quite *different* from what people had supposed; but it addressed itself to minds made up; and though justly described as "a declaration of the demeanour and carriage of Sir Walter Ralegh . . . and of the true motives and inducements which occasioned his Majesty to proceed in doing justice upon him as hath been done," it was received as a mere official apology, and had the usual fate of such compositions in being generally discredited. How far it deserved this fate is a question upon which I hope to throw some new light, when it comes before me in its place. But for the present Ralegh had the stage to himself, and he made the most of his opportunity. No tragic scene in real life was ever so finely acted. Judged by its effect upon the audience, which is the true test of speech,—and not only upon the audience then assembled in old Palace Yard, but (through them) upon all succeeding generations, up to the present day—his speech from the scaffold was a triumph of eloquence. "Though he spoke not much," says Sir E. Harwood writing to Dudley Carleton, "yet that he did was with so much assurance, so Christianly and so like truth, as all his beholders were possessed he died innocent, not only of the treason but of late new practices, and of ill speeches of his Majesty, and of justly[1] injuring the King of Spain."[2] And yet when the fullest reports of his speech are examined, it is strange to find how little there is in it, tending to alter the aspect of his case to any impartial eye. The charges from which he laboured to defend himself were in fact of so little importance that in the preceding narrative (from which I wished to exclude everything disputable) I have scarcely thought it necessary to mention any one of them. Those which constitute his real offence, he scarcely touches. The two imputations from which he seems to have been most anxious to free himself were, first, that of having "some plot or intelligence with the French King,"[3] and secondly, that of having

[1] So in MS. I suppose it should be "unjustly."

[2] S. P. Dom. 30 Oct. 1618. Sir E. Harwood reports the general impression. He was not present himself.

[3] From what he is reported to have said on this point, Mr. St. John thinks himself justified in rejecting the report of the whole speech, as a misrepresentation of his words. "What we possess under that name" [the speech on the scaffold] "it is impossible he should have uttered, unless we assume the letter to James of the 5th of October, together with his examination, and those of La Chêne, and all his communications with the French authorities, to be forgeries." (Vol. ii. p. 347.) This being Mr. St. John's way of dealing with his evidence, I have not thought it necessary to examine his conclusions.

"spoken dishonourably and disloyally" of King James. Both of which he met with a denial so solemn, and enforced with such awful imprecations, that I am glad I have no occasion to question it in either case. That he had attempted to escape, and to that end feigned sickness, and that he had promised Stucley that if he would go with him, his debts should be paid—all this he confessed to be true. But these were acts for which, though in a harsh construction they might be called breaches of parole, one can hardly blame him as his case was; and perhaps it would have been well if they had been more successful. Upon the charges which came nearer to the real question—as that he did not know of any mine, and did not mean to go to Guiana at all; that he meant to escape with the money he took out, and not to return to England; and that he had proposed to quit the place of rendezvous without waiting for the river party, and so leave them to their fate—his denial was distinct enough; but it implied nothing incompatible with the main charge. That "it was his full intention to search for gold,—for gold for the benefit of his Majesty and himself and of those that ventured with him, with the rest of his countrymen;"[1] and that he believed that Captain Keymis "knew the head of a mine" where gold was to be found;—all this may have been quite true, without implying any justification whatever of the means he took to get at it. That he had given his promise to Lord Arundel, immediately before he sailed, "not to turn pirate when he got abroad, and whether he made a good voyage or a bad not to fail to return again to England," was avouched by Lord Arundel himself, who was present. That he had kept his promise, was an apparent fact which could not be disputed. But it did not follow that he would have kept it if he had found he could do better. That it was never his intention "to go away from his company and leave them at Guiana," is an assertion which I am quite willing to accept on his own authority, being a thing which he only could know, and upon which he appeals to several witnesses whose evidence we have not the means of examining. And these (with exception of a disavowal of all concern in the death of the Earl of Essex—which had nothing to do with the present case) were all "the material points which he thought good to speak of."[2]

What was it then in this speech, if there was so little to alter the appearance of the case, which so enchanted and still continues to enchant the world, that the charge of burning and pillaging a town containing 140 houses, a church, and two convents, with a governor

[1] Jardine, p. 506.
[2] His own words, according to Jardine, p. 508.

and garrison,[1]—belonging to another and a friendly nation, and having offered no provocation whatever except an attitude of self-defence,—appears to an English gentleman and lawyer in the year 1832 vague, senseless and frivolous? I believe it was merely the manner of delivery. Ralegh was a man without fear, and with an understanding perfectly clear and serene. As long as he saw a chance of a life worth living, he had played boldly for it: and the devices to which he resorted (though to some of his admirers they have seemed so unworthy of him as to suggest a suspicion that his mind had for the time given way) were conceived and conducted with a ready wit, an activity, an ingenuity, an audacity and gay contempt for his enemies, characteristic of his best time. When he found that the chance was gone, and that his fate was to be death, he had the same faculties and the same spirit at command to meet it with. He was 66 years old. He knew of how little value to him any life was that he could expect in the course of nature. He knew that death was as easy at one time as another, and that the violent death was the easiest. The fear of it, he said, "was but an opinion and imagination," and for the manner, "though to others it might seem grievous, yet he had rather die so than of a burning fever." He had no troubles of conscience; for he had done his best to do the King a piece of good service against his will, and he had hurt nobody except Spaniards in the Indies. And the publicity and solemnity and tragical apparatus seems to have had the effect on his nerves of an agreeable excitement. Everything that he said and did was done in the best possible taste—without any touch of passion or bitterness or bravado—but with the most unaffected and cheerful composure, the finest humanity, the most courtly grace and good humour; and yet no unseemly levity, but a full recognition of the solemnity of the occasion, and the presence in which he was about to appear. If it was acting—and the effect of his behaviour upon the audience had a place no doubt in his thoughts—it was the very finest acting conceivable. Shakespeare died two years before, or one might have thought that the famous description of the death of the Thane of Cawdor was suggested by that of Ralegh.

> He died
> As one who had been studied in his death
> To throw away the dearest thing he owed
> As 'twere a careless trifle.[2]

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[1] Ralegh's Discovery of Guiana. Ed. Schomburg. p. 210.

[2] Dudley Carleton, a contemporary observer whom nobody has a right to treat with contempt, would have completed the quotation—

He had formerly boasted that he *despised* death. But his meditations in the Tower had raised his mind to a still higher elevation; for his entertainment of it on the scaffold was not with contempt, but rather with polite and courtly welcome. Never was death by the public executioner so completely cheated of its victory.

There is something so imposing to ordinary minds in this easy superiority to things which seem to them so terrible, that it is not strange if among the mass of the audience all other thoughts were lost in admiring contemplation, and all oppugnant criticism silenced for the time; and if it be true that the King had postponed his own declaration till now, that he might first hear what Ralegh would say and how it would be received, it may be that when he knew what he did say, and with what effect, he thought it better to postpone it awhile longer, that the first impression might subside. But this again was doubtful policy: for the impression showed no symptom of subsiding. "We are still so full of Sir Walter Ralegh," writes Chamberlain in forwarding some papers to Carleton three weeks after, "that almost every day brings forth somewhat in this kind; besides divers ballets; whereof some are called in, and the rest such poor stuff as are not worthy the overlooking. But when the heat is somewhat allayed we shall have a declaration touching him that shall contradict much of that which he protested with so great asseveration. But the proofs had need be very pregnant and demonstrative, or else they will hardly prevail."[1]

The proofs, in order to prevail, had need not only to be pregnant and demonstrative, but to be presented to minds equally excited, and with surrounding circumstances as picturesque, impressive, and pathetic. And this was manifestly impossible. The most conclusive answer could be no better than an argument in a book; and what book could make an impression on the popular imagination lively enough to counteract the image of the living man speaking for himself on the scaffold, in the minds of those who saw and heard him? Even now the difficulty is not removed. That image still lives and holds possession of men's minds, and an impartial judgment is not to be expected. But it is fit that those who desire to judge the case fairly should have both sides fairly presented: and we shall see presently in what light it appeared to the King. We must first

"Nothing in his life
Became him like the leaving it."

"It seems," he says, (replying to Chamberlain's report of the execution) "that he knew better how to die than to live; and his happiest hours were those of his arraignment and execution." Court and Times of James I. vol. ii. p. 106.

[1] Chamberlain to Carleton, 24 Nov. 1618.

however despatch the business of the three or four weeks during which he waited for the flood of popular passion to subside.

8.

TO THE MARQUIS OF BUCKINGHAM.[1]

My very good Lord,

This morning Mr. Attorney came to me and desired of me many writs of *Ne exeat regnum* against most of the Dutch merchants, and withal let me understand that there was a discovery of an infinite transportation of gold and silver out of this realm by the said Dutch merchants, amounting to millions; and that Sir John Britten had made a book thereof, and presented the same to his Majesty; and further, that his Majesty had directed him to prosecute the same; and had also given Sir Thomas Vavisor the forfeiture of such ten of them as he should choose.

Hereupon I thought it my duty, as in a matter of great weight, to signify to his Majesty by your Lordship what I conceive.

The discovery I think very happy. For if it be true, it will be a great benefit to his Majesty: It will also content his people much, and it will demonstrate also that Scotland is not the leech (as some discoursers say) but the Netherlanders that suck the realm of treasure. So that the thing is very good.

But two things I must represent to his Majesty; The first, that if I stay merchants from their trading by this writ, I must do it either *ex officio*, or by special warrant from his Majesty.

If *ex officio*, then I must have more than a bare surmise to grant the writ upon, so as I must be acquainted with the grounds, or at least appearance of proofs. If by special warrant, then I desire to receive the same. The other is, that I humbly beseech his Majesty that these royal boughs of forfeiture may not be vintaged or cropped by private suitors (considering his Majesty's state as it is) but that Sir Thomas Vavisor, or Sir John Britten, may have a bountiful and gracious reward for their discovery, but not the prime, or without stint.

In sum, I would wish his Majesty to refer the whole business and carriage of the same for his honour and profit to the Commissioners of Treasure; or because it is a legal forfeiture, to

[1] Stephen's first collection, p. 236. From the original. Second collection, p. 86.

myself, Mr. Chancellor, Sir Edward Coke, and my Lord Chief Justice of England: and by us his Majesty shall be assured to know the best course for his justice, honour, and profit, and that he may dispose what bounty he will. God ever preserve and prosper you.

Your Lordship's most obliged friend
and faithful servant,
FR. VERULAM, Canc.

York-house, 19 Octob. 1618.

TO THE LORD CHANCELLOR.[1]

My Lord,

I have acquainted his Majesty with your letter, who giveth you thanks for your advice to communicate the business of the Dutchmen to the commissioners for the treasury, which his Majesty was before purposed to refer to them (as it concerneth his treasure) for the carriage of it, and to your Lordship and the rest named in your letter for the relation it hath to the law. For the proposers of the suit, his Majesty intendeth only to reward their pains as may stand with his service and his princely disposition, but to reserve the main benefit to himself. All that his Majesty would have your Lordship to do for the present, is to take order about the writ *Ne exeant regnum;* and to advise with his learned counsel what course is to be taken, and if by a warrant from his Majesty, that your Lordship send him a warrant to be signed, which shall be returned with all speed. Of other things his Majesty thinketh it will be time enough to speak at his return to London. In the mean time I rest

Your Lordship's faithful friend and servant,
G. BUCKINGHAM.

Hinchenbroke, the 21 of Octob. 1618.

TO THE LORD CHANCELLOR.[2]

My honourable Lord,

Whereas there is a cause depending in the court of chancery between one Mr. Francis Foliambe and Francis Horneby, the which already hath received a decree, and is now to have another hearing before your Lordship; I have thought fit to desire you to shew so much favour therein, seeing it concerns the gentleman's whole estate, as to make a full arbitration and final end, either by taking the pains in ending it yourself, or preferring it

[1] Harl. MSS. 7006. f. Docketed by Meautys, "21 Oct. 1618. My Lo. of Buck^m to y^r Lp. touching the Dutch business and the ne exeant regnum thereupon."

[2] Harl. MSS. 7006. f. 102. Orig. Docketed by Meautys, "Oct. 22d, 1618. My Lo. of Buck^m to yr. Lp. on the behalf of Mr. Foljambe after a decree against him in Chancery."

to some other whom your Lordship shall think fit: which I shall acknowledge as a courtesy from your Lordship; and ever rest

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Hinchingbroke, the 22 of October, 1618.

TO THE MARQUIS OF BUCKINGHAM.[1]

My very good Lord,

I send the commission for making Lincoln's Inn Fields into walks, for his Majesty's signature. It is without charge to his Majesty.[2]

We have had my Lord of Ormonde before us.[3] We could not yet get him to answer directly, whether he would obey the King's award or no. After we had endured his importunity and impertinency, and yet let him down to this, that his Majesty's award was not only just and within his submission, but in his favour, we concluded in few words, That the award must be obeyed, and if he did refuse or impugn the execution of it in Ireland, he was to be punished by the justice of Ireland: if he did murmur or scandalize it here, or trouble his Majesty any more, he was to be punished in England. Then he asked whether he might be gone. For that, we told him, his Majesty's pleasure was to be known.

Sir Robert Mansell hath promised to bring in his summary account this day sevennight. God preserve and prosper you.

Your Lordship's most obliged friend and faithful servant,

FR. VERULAM, Canc.

xii No: 1618.

TO THE LORD CHANCELLOR.[4]

My honourable Lord,

I send your Lordship the commission signed by his Majesty, which he was very willing to dispatch as a business very commendable and

[1] Gibson Papers, vol. viii. f. 98. Copy.

[2] The charge was defrayed by voluntary contributions. Bacon's contribution was 50*l*. See a letter from Lorkin to Puckering. C. & T. of James I. vol. ii. p. 109.

[3] A dispute between Walter Earl of Ormond and Sir Richard Preston Lord Dingwell had been referred to the King. The Earl, not being satisfied with his award, refused to obey it.

[4] Harl. MSS. 7006. f. 104. Orig. Docketed by Meautys, "November 13. My Lo. of Buck^m to yo^r Lp. with the commission for Lincoln's Inn Fields, signed by his Ma^ty, and requiring the hasting of Sir Rob. Mansell's accompt."

worthy to be taken in hand. For the Earl of Ormonde, his Majesty made no other answer but that he hopeth he is not so unmannerly as to go away without taking leave of his Majesty. For Sir Robert Mansell's account, his Majesty saith he is very slow, especially being but a summary account, and that he promised to bring it in before: and therefore would have him tied to the day he hath now set, without any further delay.

This last his Majesty commanded me to put in after I had written and signed my letter.

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Royston, the 13th of November, 1618.

TO THE LORD CHANCELLOR.[1]

My honourable Lord,

Having formerly moved your Lordship in the behalf of this bearer, Mr. Wyche, of whom as I understand your Lordship hath had a special care to do him favour according to the equity of his cause; now seeing that the cause is shortly to be heard, I have thought fit to continue my recommendation of the business unto you, desiring your Lordship to shew what favour you lawfully may unto Mr. Wyche, according as the justness of the cause shall require: which I will acknowledge as a courtesy from your Lordship, and ever rest

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Newmarket, the 18 of November, 1618.

TO THE LORD CHANCELLOR.[2]

My honourable Lord,

I send your Lordship the bill of the Sheriffs of Hereford and Leicester pricked and signed by his Majesty, who hath likewise commanded me to send unto your Lordship these additions of instructions sent unto him by the surveyor and receiver of the Court of Wards; wherein because he knoweth not what to prescribe without understanding what objections can be made, his pleasure is that your Lordship advise and consider of them, and send him your opinion of them, that he may then take such course therein, as shall be fit.

His Majesty commanded me to give you thanks for your care of his service; and so I rest

Your Lordship's faithful Servant,

G. BUCKINGHAM.

Newmarket, 22 of November.

[1] Harl. MSS. 7006. f. 106. Orig. Docketed by Meautys, "November 18th, 1618. My Lo. of Buck^m to yo^r Lp. in the behalf of Mr. Wych."

[2] Harl. MSS. Vol. 7006. Docketed by Meautys, "My Lo. of Buck. to your Lp. with some additional instructions touching the court of wards enclosed." The date of the docket is worn off: but, according to Birch, it was 1618.

TO THE MARQUIS OF BUCKINGHAM.[1]

My very good Lord,

We have put the Declaration touching Ralegh to the press with his Majesty's additions,[2] which were very material, and fit to proceed from his Majesty.

For the prisons, we have taken an account, given a charge, and put some particulars in examination for punishment and example.

For the pursuivants, we staid a good while for Sir Edward Coke's health; but he being not yet come abroad, we have entered into it; and we find faults, and mean to select cases for example: but in this swarm of Priests and Recusants, we are careful not to discourage in general. But the punishment of some that are notoriously corrupt concerned not the good, and will keep in awe those that are but indifferent.

The balance of the King's estate is in hand, whereof I have great care, but no great help.

The sub-committees for the several branches of treasure are well chosen and charged.

This matter of the King's estate for means is like a quarry which digs and works hard; but then when I consider it buildeth, I think no pains too much; and after term it shall be my chief care.

For the Mint, by my next I will give account; for our day is Wednesday.

God ever preserve and prosper you.

Your Lordship's

FR. VERULAM, Canc.

November 22, 1618.

TO THE RIGHT HON. MY GOOD LORD THE LORD MARQUIS OF BUCKINGHAM, OF HIS M. MOST HON. PRIVY COUNCIL.[3]

My very good Lord,

I have this morning received the petty roll for the shrives.

[1] Gibson Papers, vol. viii. f. 99. Copy by Meautys. Docketed, "Nov. 22, 1618. Y^r Lp. to my Lo. of Buckingham, of Council business."

[2] There are no marks in the original to distinguish these additions. But I suspect them to be the opening and the concluding paragraph.

[3] Fortescue papers. Original; own hand.

I received also the papers exhibited by Sir Miles Fleetwood, which I will use to his Majesty's best service, and thereupon give account to his Majesty when time serveth.

My care, which is not dormant touching his Majesty's service, specially that of treasure (which is now *summa summarum*), maketh me propound to his Majesty a matter, which (God is my witness) I do without contemplation of friend or end, but *animo recto*.

If Sir Edward Cooke continue sick, or to keep in, I fear his Majesty's service will languish too, in those things which touch upon law; as the calling in debts, Recusants, Alienations, Defalcations, etc. And this is most certain, that in these new diligences, if the first beginnings cool, all will go back to the old bias. Therefore it may please his Majesty to think of it, whether there will not be a kind of necessity to add my Lord Chief Justice of England to the Commissioners of Treasure. This I move only to the King and your Lordship, otherwise it is as a thing *ex non entibus*.[1] God preserve and prosper you.

Your Lordship's most faithful servant,

FR. VERULAM, Canc.

From the Star-chamber,
25 Nov. 1618.

P.S. I forget not Tufton's cause. All things stay, and precedents are in search.

9.

The Declaration concerning Ralegh had been for some time in preparation. But one of the inconveniences of neglecting to proclaim the true causes of his execution at the right time, was the want of an occasion which might seem to call for it afterwards: if it was not wanted then, it might be asked, why is it wanted now? And the occasion which was made to serve this purpose was not a very happy one. When the news went abroad that Ralegh had been arrested by Sir Lewis Stucley in an attempt to escape into which Sir Lewis had himself betrayed him, there was a great burst of

[1] I have not seen the answer to this letter, but from an allusion to it in Buckingham's letter of 3 December, which will be found further on, I gather that the King objected to this suggestion because Sir E. Coke "might apprehend some disgrace to him therein, though it were never intended."

popular indignation. Of the true history of his proceedings since his first arrest nothing was known; but it was known that he had been betrayed, and the word was enough. Sir Lewis (now popularly saluted as Sir Judas) who, to do him justice, does not appear to have had any object besides the faithful performance of his commission, which was to bring Ralegh up to London that he might be disposed of as the Lords of the Council should direct—a commission which it was surely no crime to undertake—was not prepared to endure this kind of language in silence. He tried to clear himself of the imputation of treachery by explaining that he had been as easy and indulgent as possible with his prisoner until he found that his indulgence was abused, and that it was only the detection of a plot to give him the slip, followed on its failure by an attempt to bribe him into connivance, that put him upon contriving a counterplot: for which also he had warrant from the King, to whom he had first reported the facts. This he set forth in a short paper, called his "Apology," which seems to have been written immediately after he resigned his charge;[1] and consists of a simple, straightforward, inartificial statement, without any rhetoric or special pleading, but very much in earnest, and (as far as I can see) quite true. For it cannot be denied that the game of double dealing had been begun by Raleigh himself; that his treatment of Stucley (who had been for many days his easy dupe) had deprived him of all title to favour or confidence; that the stratagem by which he was caught, though it involved dissimulation and deceit, was one of those which are always allowed in war; and one which, even in peace, if the parts had been reversed—if it had been used by Sir Walter to baffle Sir Lewis—would have passed with general allowance, if not with general applause and congratulation: and that the object aimed at and effected by it was after all nothing more than safe keeping in order to judicial enquiry, in a case which evidently demanded it. For if the stratagem had been omitted altogether, and Ralegh had at once on the discovery of his plot to escape been transferred to the Tower—a measure to which no one could have objected—he would have gained nothing by the difference except the power of denying the *intention* to escape—which, as it was, he could not do. He had been betrayed into a position which compelled him to admit the truth:

[1] Sir Lewis Stukelye's Apollogie writte with his owne hand. MS. Ashmole, 830. 20. Printed in the Oxford edition of Ralegh's Works. Vol. viii. p. 783. It begins "I know full well that all actions . . . . shall be scanned, as already I have been informed mine have been in the execution of my Sovereign's late commands, even since *yesterday*, that I performed the same, committing Sir Walter Ralegh and some of his adherents . . . . to the Tower." As Ralegh was lodged in the Tower on the 9th of August, it follows that this was written on the 10th. The whole paper will be found in the appendix to the Declaration.

that was all: and Stucley's Apology, as drawn up by himself, seems to me fair and sufficient. But when popular sympathy runs strongly the other way, reasonable considerations are opposed to it in vain. In spite of his Apology, and in spite of the rumours which began to get abroad as to Ralegh's own dissimulations, the stream continued to run against him:[1] and when Ralegh on the scaffold "forgave" him with an unction and an emphasis which scarcely needed the charitable "warning" which followed to make it stir popular indignation,[2] his position became so uncomfortable that he appealed to the King for help. His appeal was in the form of a petition, consisting of a recital of facts, with answers to the aspersions of which he complained; and ended with two requests—first that he might have leave to confirm the truth of his statement by receiving the sacrament upon it in his Majesty's chapel; and secondly (which was more to the purpose) that "a declaration" might be suffered to come forth "from the State, for the clearing of these matters and further satisfaction of the world." The request was reasonable. The King owed as much, not to Stucley only, but to himself. For the world was talking, thinking, and feeling with passionate excitement about matters of which it had no means as yet of knowing the true history, or anything like it. That Raleigh's "late crimes and offences were not as yet publicly known," was still as true as on the 18th of October when the Commissioners called the King's attention to the fact. But Stucley—thinking perhaps that his first defence had failed of effect for want of literary skill—had now called in the aid of a practised penman to point the sentences; under whose hands the composition lost all that appearance of simplicity and sincerity which formed the merit of his own "Apology," and assumed a shape as unfit as possible either to convince or to conciliate an ill affected public. The writer was said to be Dr. Sharpe.[3] Whoever he was, he succeeded in exhibiting the unfortunate Sir Lewis in an attitude and frame of mind as insolent and offensive as he could, and as well contrived to turn everybody against him; and in making his petition a most unfortunate precursor for the manifesto which the government were preparing. It supplied however the occasion which was

[1] "He [Ralegh] hath made a long apology for himself, and his friends excuse him all they may; wherein though the world be not satisfied, yet Sir Lewis Stucley is generally decried." Chamberlain to Carleton, 20 Aug. 1618.

[2] "I forgive this Frenchman and Sir Lewis Stucley, who was also a witness against me in my flight, with all my heart. . . . I have received the sacrament this morning and I have forgiven all men. But that these two men are perfidious, I am bound in charity to speak, that all men may take heed of them." Jardine, p. 565.

[3] Chamberlain to Carleton, 4 Decemb. 1618.

wanted: and was made to serve for a kind of advertisement. At what time the 'Petition' had been drawn up and presented, we do not know, but it was *published* by the King's printer on the 26th of November, and an effort was made to get the Declaration out immediately after. "Sir Lewis Stucley's petition" (so Naunton writes to Buckingham on the 27th) "was published yesterday; the declaration is this day, upon the despatch of this packet, to follow after. The printer hath sent me two copies of each, for his Majesty and the Prince, and prays pardon for some escapes committed in their haste; which was such as they were fain to watch two nights, and set 20 presses to work at once."[1]

Perhaps it was thought that the Petition would create a desire for information without satisfying it, and so give the Declaration a greater value. Chamberlain's report of their first appearance suggests some such relation between them. Writing the next day, he says—

"You will find little in Sir Lewis Stucley's Apology[2] but that they strive to beray one another. It is like we shall have no further Declaration if this may satisfy, which hitherto finds little credit.

"But now when I am come thus far, my man brings me an authentical declaration of all that business. I have not read a word of it (more than the title); for it came forth but this morning: and, as I hear, it is the work of the Lord Chancellor, Mr. Attorney, or Secretary Naunton; or rather fathered upon all three: so that in all probability it must be as true as well written."[3]

The allusions to it in Bacon's letters to the King and Buckingham indicate a joint composition, but one in which he was himself concerned. And though it is impossible to say how much of it was his own, yet, judging by the style, I incline to think that the greater part was either wholly written or largely corrected by himself, and that it has as good a right to a place among his occasional works as any of those "public writings of satisfaction," in which his "pen was used," but which were not written in his own name or published by his own authority, and were subject both to the direction and the correction of those who were really responsible. To call it "Bacon's Declaration," as Mr. Edwards does, is both inaccurate and misleading. To call it "the King's Declaration," as has been done by others, is nearer the truth; for though not written by his hand nor issued in his name, it was issued with his knowledge and permission, as a

[1] Naunton to Buckingham, 27 Nov. Fortescue Papers.
[2] Meaning, I think, his "Petition," which had been published two days before.
[3] S. P. Dom. Vol. ciii. no. 110.

manifestation of his mind. But its proper title is the *official* Declaration:—a declaration drawn up by the King's direction, penned by certain Councillors (Bacon being one), allowed by the Council, and printed by authority. Bacon's rank in Council, together with his concern in the actual composition, entitle us to impute to him a *large share* of the responsibility: but as he spoke in the name of others, and his authority was not absolute, to charge him with the *sole* responsibility is a mistake.

Wherever I have been able to compare the statements in this Declaration with the evidence upon which they were made, I have found them to be very careful and conscientious; and I have no doubt that the narrative may in all parts be depended upon for strict accuracy, so far as accuracy was attainable by studious comparison of conflicting witnesses. But it is much to be regretted—and must I think have been a great error of judgment in the King or his Councillors—that this evidence was not made public at the same time. Official statements put forth in excuse of the Government are always apt to be suspected, because they are not exposed to criticism and those who want the excuse tell the story. In a case like this, where the excuse had to be made good in the face of a strong popular prejudice, it was doubly necessary to exclude all doubts as to the fidelity of the narrative; and this would have been done most effectually by publishing the depositions. Why it was not done is not explained. It may have been from over confidence in the strength of the case; or it may have been from consideration for the deponents—whom the popular judgment would perhaps have voted to be false witnesses, and treated accordingly. That it was *not* because they would have failed to bear out the official story, I infer from the tenour of all those which I have seen. For though most of them have disappeared, a few have luckily survived; and that these at least might have been cited as witnesses every way unexceptionable in confirmation of the story as told by the government, the reader shall have an opportunity of judging for himself. For I have thought it expedient to add in notes or in an appendix as many of them as I have been able to find, bearing either way upon the matter treated of in the text. In the notes I have extracted the particular passages which illustrate particular statements in the narrative. But the letters or examinations from which they are taken will be found in the appendix at full length.

A DECLARATION OF THE DEMEANOR AND CARRIAGE OF SIR WALTER RALEIGH, KNIGHT, AS WELL IN HIS VOYAGE AS IN AND SITHENCE HIS RETURN; AND OF THE TRUE MOTIVES AND INDUCEMENTS WHICH OCCASIONED HIS MAJESTY TO PROCEED IN DOING JUSTICE UPON HIM, AS HATH BEEN DONE.[1]

Although Kings be not bound to give account of their actions to any but God alone, yet such are his Majesty's proceedings as he hath always been willing to bring them before sun and moon, and careful to satisfy all his good people with his intentions and courses, giving as well to future times as to the present true and undisguised declarations of them; as judging that for actions not well founded it is advantage to let them pass in uncertain reports, but for actions that are built upon sure and solid grounds (such as his Majesty's are), it belongeth to them to be published by open manifests: Especially his Majesty is willing to declare and manifest to the world his proceedings in a case of such a nature as this which followeth is; since it not only concerns his own people, but also a foreign prince and state abroad.

Accordingly therefore, for that which concerneth Sir Walter Raleigh late executed for treason (leaving the thoughts of his heart and the protestations that he made at his death to God that is the searcher of all hearts and judge of all truth), his Majesty hath thought fit to manifest unto the world how things appeared unto himself, and upon what proofs and evident matter, and the examination of the commanders that were employed with him in the voyage (and namely of those which Sir Walter himself by his own letter to Secretary Winwood had commended for persons of special worth and credit, and as most fit for greater employments), his Majesty's proceedings have been grounded; whereby it will evidently appear how agreeable they have been in all points to honour and justice.

Sir Walter Raleigh having been condemned of high treason at his Majesty's entrance into this kingdom, and by the space of fourteen years by his Majesty's princely clemency and mercy not only spared from his execution, but permitted to live as in *liberâ custodiâ* in the Tower, and to enjoy his lands and living,

[1] London, printed by Bonham Norton and John Bill, printers to the King's most excellent Majesty. M.DC.XVIII.

till all was by law evicted from him upon another ground, and not by forfeiture, (which notwithstanding, his Majesty out of his abundant grace gave him a competent satisfaction for the same); at length he fell upon an enterprise of a golden mine in Guiana.

This proposition of his was presented and recommended to his Majesty by Sir Ralph Winwood, Secretary of State, as a matter not in the air or speculative, but real and of certainty, for that Sir W. Raleigh had seen of the ore of the mine with his eyes, and tried the richness of it. It is true that his Majesty in his own princely judgment gave no belief unto it, as well for that his Majesty was verily persuaded that in nature there are no such mines of gold entire, as they described this to be; and if any such had been, it was not probable that the Spaniards, who were so industrious in the chase of treasure, would have neglected it so long; as also that it proceeded from the person of Sir W. Raleigh, invested with such circumstances both of his disposition and fortune. But nevertheless Sir W. Raleigh had so enchanted the world with his confident asseveration of that which every man was willing to believe, as his Majesty's honour was in a manner engaged not to deny unto his people the adventure and hope of so great riches to be sought and achieved at the charge of voluntaries; especially for that it stood with his Majesty's politic and magnanimous courses in these his flourishing times of peace to nourish and encourage noble and generous enterprises for plantations, discoveries, and opening of new trades.

Hereupon the late Spanish Ambassador, the Count de Gondomar, took great alarm, and represented unto his Majesty by loud and vehement assertions upon iterated audiences that he knew and had discovered the intention and enterprise of Sir Walter Raleigh to be but hostile and piratical, and tending to the breach of the peace between the two Crowns, and danger and destruction of the King his master's subjects in those parts; protesting in a sort against the same. To which his Majesty's answer always was, that he would send Sir Walter Raleigh with a limited commission, and that he durst not upon peril of his head attempt any such matter; and if he did he would surely do justice upon him, or send him bound hand and foot into Spain, and all the gold and goods he should obtain by robbery and bring home, were they never so great. And for further caution his Majesty enjoined Secretary Winwood to urge Sir Walter Raleigh upon

his conscience and allegiance to his Majesty to deal plainly, and express himself whether he had any other intention but only to go to those golden mines in Guiana; which he not only solemnly protested unto the said Sir Ralph Winwood, but by him writ a close letter to his Majesty, containing a solemn profession thereof, confirmed with many vehement asseverations, and that he never meant or would commit any outrages or spoils upon the King of Spain's subjects. But notwithstanding his Majesty acquainted the Spanish ambassador with this his protestation, yet the said ambassador would never recede from his former jealousy and importuning his Majesty to stay his voyage, alleging that the great number of ships that Sir Walter Raleigh had prepared for that voyage shewed manifestly that he had no such peaceable intent; and offering (upon Sir Walter Raleigh his answer thereunto, that those ships were only provided for his safe convoy) that if Sir Walter Raleigh would go with one or two ships only to seek the said mine, that he would move the King of Spain to send two or three ships with him back again for his safe convoy hither with all his gold; and the said ambassador's person to remain here in pledge for the King his master his performance thereof. But such were the constant fair offers of the said Sir Walter Raleigh, and specious promises, as his Majesty in the end rejected the importunate suit of the said Spanish ambassador for his stay, and resolved to let him go;[1]

[1] I am indebted to Mr. Gardiner for some notes from Simancas which fully confirm this part of the story. "In a letter of the 2d of September, 1616" [23 August according to English reckoning], Sarmiento writes that W. Raleigh, 'being a prisoner in England for a crime of high treason, had proposed to that King by means of some of his supporters, that he should be set at liberty, and that he with his kinsmen and friends should make a fleet and go to Guiana near the river Orinoco, where he said that there was a mine of gold, which had not been discovered by any one, and was not his Majesty's [*i.e.* the King of Spain's] *but very distant from his lands*, and that he would try to take it. And that the Count had spoken to that King and to his Councillors, and had tried to persuade them not to admit of this expedition, because all that part about the river Orinoco was his Majesty's. That that King had assured him that he would not touch what was his Majesty's, and that he would give him respectable persons to accompany him, who would not allow him to do what he ought not; and that he had not been able to obtain more. And he sent with this letter a copy of the project which Walter gave, and also a relation of the preparations he made, and the designs which he understood him to have formed, and of that which could be done there to hinder them.' He also sent a copy of Raleigh's Commission."

On the 12th of October [2d O. S.] Sarmiento writes "that that King had assured him that Walter should not go forth without giving security that he would do no harm to any of his Majesty's subjects."

On the 30th [20th] of November "Sarmiento had again spoken to the King and his Councillors about this expedition, trying to bring them not to allow it,

but therewithal took order both that he and all those that went in his company should find good security to behave themselves peaceably towards all his Majesty's friends and allies, and to observe strictly all the articles of the commission, which his Majesty for that cause had the greater care to have it well and clearly penned and set down. And that his Majesty's honest intention may herein the better appear, the words of the commission are herein inserted, as follows.

James by the grace of God, etc. To all to whom these presents shall come to be read heard or seen, and to every of them, greeting. Whereas Sir W. Raleigh, Knight, intendeth to undertake a voyage by sea and shipping unto the south parts of America, or elsewhere within America, possessed and inhabited by heathen and savage people, to the end to discover and find out some commodities and merchandises in those countries that be necessary and profitable for the subjects of these our kingdoms and dominions, whereof the inhabitants there make little or no use or estimation; whereupon also may ensue by trade and commerce some propagation of the Christian Faith and reformed religion amongst those savage and idolatrous people: And whereas we are credibly informed that there are divers merchants and owners of ships and others well disposed to assist the said Sir Walter Raleigh in this his enterprise, had they sufficient assurance to enjoy their due parts of the profits returned (in respect of the peril of law wherein the said Sir Walter Raleigh now standeth): And whereas also we are informed that divers other gentlemen, the kinsmen and friends of the said Sir Walter Raleigh, and divers captains and other commanders are also desirous to follow him and to adventure their lives with him in this his journey, so as they might be commanded by no other than himself:

with very strong reasons and arguments, and they had answered him in the same way as before."

On the 6th of April [27 March] 1617, "Sarmiento writes 'that Walter is just about to start, and that upon this occasion he had again spoken to the King about the said expedition, and that he showed himself annoyed, saying to him that if they tried to overthrow it, all the kingdom would speak against it. Yet he would summon his Council to see if it could be overthrown. And having summoned it the King himself put forward the inconveniences of that expedition. But Walter had so many supporters in the Council that they all helped him, offering to the King security that he would do no harm in his Majesty's lands, and the Count of Gondomar sent a copy of that which he had written in this matter to the King of England, and to his favourite Don George Villiers, and to the Secretary of State Don Thomas Lake; all of which was to urge the overthrowing of the expedition, representing its inconveniences, and the obligation under which they placed his Majesty [the King of Spain] to chastise Walter Raleigh, wherever he might be found.

"And in his letter of the 7th of April [28 March] he states that Winwood had been to speak to him on behalf of that King, and to satisfy him with the same reasons as before, and he shewed him the memorial which Walter gave, and the certificate which he made of his ships, which were seven, and the security which he gave to do no harm."

Know ye that we, upon deliberate consideration had of the premisses, being desirous by all ways and means to work and procure the benefit and good of our loving subjects, and to give our princely furtherance to the said Sir Walter Raleigh his friends and associates herein, to the encouragement of others in the like laudable journeys and enterprises to be hereafter prosecuted and pursued; and especially in advancement and furtherance as well of the conversion of savage people as of the increase of the trade traffic and merchandises used by our subjects of this our kingdom, being most famous throughout all nations: of our special grace, certain knowledge, and mere motion, have given and granted, and by these presents for us, our heirs and successors do give and grant unto the said Sir W. Raleigh full power and authority and free licence and liberty out of this our realm of England or any other our dominions to have carry take and lead for and towards his intended voyage into the said south parts or other parts of America (possessed and inhabited as aforesaid), and to travel thither, all such and so many of our loving subjects or any others strangers that will become our loving subjects, and live under our obeisance and allegiance, as shall willingly accompany him, with sufficient shipping, armour, weapons, ordinance, munition, powder, shot, habiliments, victuals, and such wares and merchandises as are esteemed by the wild people in those parts, clothing, implements, furniture, cattle, horses, and mares, and all other such things as he shall think most necessary for his voyage, and for the use and defence of him and his company, and trade with the people there; and in passing and returning to and fro; and in those parts to give away, sell, barter, exchange, or otherwise dispose of the same goods merchandises and premisses, to the most benefit, and at the will and pleasure of the said Sir Walter Raleigh and his company and such other person or persons as shall be adventurers or assistants with or unto him in this his intended voyage; and from thence to return, import, convey and bring into this our kingdom or any other our dominions such gold, silver, bullion, or any other wares and merchandises or commodities whatsoever, as they shall think most fit and convenient; and the same being so returned, imported, conveyed and brought into this our kingdom or any other our dominions, to have, take, keep, retain and convert to the only proper use benefit and behoof of the said Sir W. Raleigh and his said company and other persons adventurers and assistants with or to him in this voyage, without the let, interruption, molestation, and disturbance of us, our heirs or successors, or any the officers or ministers of us, our heirs or successors whatsoever; paying and answering unto us, our heirs and successors, the full fifth part in five parts to be divided of all such gold and silver and bullion and ore of gold or silver and pearl and precious stone, as shall be so imported, over and besides and together with such customs, subsidies, and other duties as shall be due for or in respect of any other goods, wares, or merchandises whatsoever to be imported by the true meaning of these presents. And to the end the said Sir W. Raleigh may be the more encouraged to go forward in this his enterprise and all our loving subjects desirous to be adventurers with him

or assistant unto him may be the more incited to further his proceedings, we do hereby *in verbo regio* for us our heirs and successors covenant promise and grant to and with the said Sir W. Raleigh and all other persons that shall accompany him or to be attendant upon him or to be adventurers or assistants with or to him in this his voyage, that no gold, silver, goods, wares or merchandises whatsoever or of what kind or sort soever, by him or them or any of them to be imported into this our kingdom of England or any other our dominions from any the said south or other parts of America (possessed or inhabited as aforesaid) shall be attached seized or taken by us our heirs or successors or to the use of us, our heirs or successors, or by any the officers or ministers of us, our heirs or successors whatsoever; but that the same and every of them (the fifth part of the said gold silver or bullion and ore of gold and silver and pearl and precious stone, and other the customs and duties aforesaid being truly answered and paid) shall be and remain to the sole and proper use and behoof of the said Sir W. Raleigh and his said company and such persons as shall be adventurers with him or assistant to him in this his voyage; any law, statute, act of Parliament, proclamation, provision, or restraint, or any right, title, or claim of us, our heirs or successors, or any other matter or thing whatsoever to the contrary in any wise notwithstanding. And further of our more especial grace, certain knowledge, and mere motion, we do hereby for us, our heirs and successors ordain constitute and appoint the said Sir W. Raleigh to be the sole governor and commander of all persons that shall travel or be with him in the said voyage to the said south or other parts of America (so possessed and inhabited as aforesaid) or in returning from thence. And we do hereby give unto him full power and authority to correct, punish, pardon, govern and rule them or any of them, according to such orders, ordinances, constitutions, directions and instructions as by the said Sir W. Raleigh shall be from time to time established, as well in cases capital and criminal as civil, both marine and other; so always as the said statutes ordinances and proceedings (as near as conveniently may be) be agreeable to the laws, statutes, government and policy of this our realm of England and not against the true Christian faith now professed in the Church of England. And because that in such and the like enterprises and voyages great inconveniences have grown by the mutinous and disorderly carriage of the mariners and sailors employed in the same, for want of sufficient authority to punish them according to their offences, we do therefore by these presents for us, our heirs, and successors, give full power and authority to the said Sir Walter Raleigh, in case of rebellion or mutiny by sea or land, to use and exercise martial law (upon just ground and apparent necessity) in as large and ample manner as our Lieutenant General by sea or land, or our Lieutenants in our counties within our realm of England have had or ought to have by force of their commission of lieutenancy. And we do further by these presents give full power and authority to the said Sir Walter Raleigh to collect nominate and appoint such captains and other inferior commanders and ministers under him as shall be requisite for the better ordering and

government of his company and the good of the voyage. And further we do by these presents for us, our heirs and successors, straightly charge and command the Warden of our Cinque-ports, and all the customers, comptrollers, surveyors, searchers, waiters, and other officers and ministers of us our heirs and successors for the time being that they and every of them do quietly permit and suffer the said Sir Walter Raleigh and all person and persons that shall be willing to travel and adventure with him in this voyage with their ships, munition, goods, wares and merchandises whatsoever out of this our realm or any other our dominions to pass into the said south or other parts of America (possessed and inhabited as aforesaid) and from thence to return and import into this our realm or any other our dominions any goods wares or merchandises whatsoever, and there to sell or otherwise to dispose of the same to the best benefit and advantage, and to the only use and behoof of the said Sir Walter Raleigh and his company, and such other persons as shall be adventurers with him in this voyage, paying the fifth part of all gold and silver, bullion, and ore of gold and silver, and of pearl and precious stone imported, and other the customs and duties aforesaid. And these presents or the inrollment thereof shall be unto the said Warden of the Cinque-ports, customers, comptrollers, and other the officers and ministers aforesaid for the time being a sufficient warrant and discharge in that behalf. And our will and pleasure is, and by these presents for us our heirs and successors we do grant unto the said Sir Walter Raleigh that these our letters patents or the inrollment thereof, and all and singular grants, clauses, and things therein contained, shall be firm, strong, sufficient and effectual in law, according to our gracious pleasure and meaning herein expressed; any law, statute, act, provision, ordinance or restraint, or any other matter or thing to the contrary thereof in anywise notwithstanding. Although express mention, etc. In witness whereof, etc. Witness our self at Westminster, the six and twentieth day of August, in the fourteenth year of our reign of England, France and Ireland, and of Scotland the fiftieth.

Per breve de privato sigillo.

This commission so drawn and framed (as you see) his Majesty himself did oft peruse and revise,[1] as foreseeing the

[1] There is a copy of this commission at the Record Office on parchment, with Bacon's certificate, which is as follows :—

It may please your excellent M. *

This containeth your M.'s commission unto Sir Walter Ralegh, Knt., to travel and take with him into the south parts and other parts of America, possessed and inhabited by heathen and savage people, such persons as shall be willing to go and adventure themselves with him, with sufficient shipping, armour, horses, wares and merchandises as shall be necessary for their journey, as well for the better increase of the trade of merchandise of this kingdom, as by conversation and commerce to draw those savage and idolatrous people to the true worship of God.

It maketh him also sole commander of those that go with him, and gives him power to elect and appoint captains and under officers for the better ordering and government of the company and the good of the voyage, and in case of rebellion

future events; the tenor whereof appeareth to be so far from giving Sir Walter Raleigh warrant or colour to invade any of the territories occupate and possessed by the Spaniards, as it tended to a direction rather of commerce than spoil even towards the savages themselves. And the better to contain Sir Walter Raleigh and to hold him upon his good behaviour, his Majesty denied (though much sued unto for the same) to grant him pardon for his former treasons, both to disauthorise him with those that were under his command (in case he should attempt to exceed his commission) and to reserve him to the justice of the law if by new offences he should make himself indign of former mercies. And as for the good security which his Majesty ordered to be taken for their good and peaceable behaviour in the voyage, his Majesty never heard anything to the contrary but that it was performed, till they were upon their parting; and then it was told him that every one of the principals that were in the voyage had put in security one for another, which if his Majesty had known in time he would never have accepted of.

But howsoever the commission was penned, and whatsoever the cautions were which his Majesty intended or used, and whatsoever the protestations and promises were that Sir Walter Raleigh made or exhibited, it appeareth plainly by the whole sequel of his actions that he went his own way and had his own ends; first, to procure his liberty, and then to make new fortunes for himself, casting abroad only this tale of the mine as a lure to get adventurers and followers; having in his eye the Mexico fleet, the sacking and spoil of towns planted with Spaniards,

or mutiny, upon just ground and apparent necessity to use martial law; which clause hath been used to be inserted in patents of like discovery and adventure.

There is herein reserved to your Ma^ty and your heirs and successors as well the fifth part of all gold and silver, pearl and precious stone, as also all customs, subsidies, and duties due for wares and merchandises imported from those parts.

Your M. doth also hereby promise *in verbo regio* that the said Sir Walter and his company, and all that adventure with him, shall quietly enjoy such goods as they shall import; which is desired in respect of the peril of law wherein Sir Walter Raleigh standeth.

Signified to be by your Ma^ty's pleasure by Mr. Secretary Winwood.

FR. BACON.

The document bears James's sign-manual, and agrees exactly with the printed copy, except that it does not contain the witnessing clause at the end, which includes the date. There is no date on the face of the parchment: but in the endorsement it is dated the 28th of July: being, I presume, the day on which it was returned with the King's signature at the top; which was the authority for making out the Commission in due form. The 28th of July was the day on which it was *settled;* the 26th of August the day on which it was signed, sealed, and delivered.

the depredation of ships, and such other purchase; and making account that if he returned rich he would ransom his offences (little looking into the nature and character of his Majesty's justice and government); and if otherwise, he would seek his fortune by flight and new enterprises in some foreign country.

In execution therefore of these his designs, Sir Walter Raleigh, carrying the reputation of an active witty and valiant gentleman and especially of a great commander at sea, by the inticement of this golden bait of the mine, and the estimation of his own name, drew unto him many brave captains and other knights and gentlemen of great blood and worth to hazard and adventure their lives and the whole or a great part of their estates and fortunes in this his voyage: whose ruins and decays following remain as sad and grievous relics and monuments of his unfortunate journey and unfaithful proceedings.

But before he went from London, he was not so reserved, nor so constant unto his pretence of the mine, but that some sparks brake forth of that light which afterwards appeared. For he cast forth some words to some particular friends of his company, That he knew a town in those parts upon which he could make a saving voyage in Tobacco, though there were no other spoil.[1] Nevertheless to make the better faith of that he had given out touching the mine, he promised his company at London that when he came to Plymouth he would take a great company of pioners out of the west (where best workmen are of that kind), and he maintained this his pretence so far as he billeted the said pioners for several ships; but when he came into the west this vanished. For it is testified of all parts, and by himself confessed, that he carried none at all, excusing it that there were many other tall men of the mariners and common soldiers that he would have made fall to work; which is a slender excuse of omitting so principal a point. As for pickaxes, mattocks, and shovels for the working of the mine, it is true he carried some

[1] See the examination of Captain Roger North, taken before the Lords at Whitehall, 17 Sept. 1618. (Harl. MSS. 6846. f. 57.) "Being asked whether it did appear unto him this exam^te^ that Sir W. Raleigh had foreknowledge that the country of Guiana where the mine was was inhabited by Spaniards; he saith that it was most manifest that he did; for that he this exam^te^ heard Sir W. Raleigh say before he went from London, that he knew a place where they might make a saving voyage in tobacco; and that he had heard him also say as they were on the voyage, that if they could surprise the Town on the river Orenoque they might be sure of forty thousand pounds weight or worth of tobacco."

small quantity for a show, but by the judgment of all that were in his company nothing near sufficient for that which had been requisite for the working of the mine, which he excused only by saying that his men never saw them unpacked, and that the mine was not past a foot and a half underground.

After, when he was once at sea, he did not much labour to nourish and maintain the belief that he meant to make his voyage upon the profit of the mine, but fell a degree, as if it were sufficient to bring home certainty and visible proof that such a mine there was, though he brought not the riches of it. For soon after his setting forth from Ireland[1] he professed that if he brought home but a handful or basketful of ore, to shew the King, he cared for no more, for it was enough to save his credit; and being charged therewith, he confessed the speech, with this argument and inference, that if there had been but a handful of the mine, it followed there was a mine to be confessed; as if so many ships, so many lives of men, such charge of provisions, and such an honourable commission, had been but for an experiment.

About the same time likewise he began to forget his commission as well as his pretences of the mine; for he did declare himself to divers of his company that he meant to take St. Thome, and that he would make his voyage good upon that town, for that it was very rich;[2] so as where it was blown abroad that the assault of St. Thome was inforced by a kind of necessity, for that our troops were first assailed, it appeareth manifestly both by his speech at London of a town indefinitely, and by this his speech early in his voyage at sea of St. Thome by name, that it was an original design of his from the beginning; and yet it is confessed by all that the parts of Guiana where St. Thome was situate were planted by Spaniards, who had divers towns in the same tract, with some Indians intermixed that are their vassals; so as it is plain both place and persons were out of his commission.

[1] I have not found the deposition in which this is stated; but Captain North states that he used this language after the return from the mine. "After their return from seeking the mine, he heard Sir Walter Raleigh say that if there had been a mine they could not have made any great advantage or profit of it at that time, but that he, the said Sir Walter Raleigh, went to bring an example of it to save his credit with the King and the Lords, which was his chief desire."

[2] See Captain North's examination, quoted in note, last page.

And that this was well known to him, it appears notably in a letter of his own hand, written since his return from this voyage,[1] wherein he complains that the Spaniards of the same place did murder divers of his men which came in peace to trade with them, some seven years past; neither doth he in that letter any way decline his knowledge that those parts were inhabited by the Spaniards,[2] but stands upon a former title which he would needs now have strengthened by a new possession; notwithstanding that this his pretence is no way competible with his commission, and that himself before his going never made overture or allegation of any such pretext, nor so much as intimated or insinuated any such design or purpose.

Again, before he came to the Islands he made no difficulty to tell many in express terms that he meant to surprise and set upon the Mexico fleet, though sometimes he would qualify it, by saying, *If all failed, or if the action of the mine were defeated.*[3]

And Sir Walter Raleigh himself being charged with these speeches, confessed the words, but saith that, in time, they were spoken after the action of the mine was defeated: and that it was propounded by him to the end to keep his men together, and if he spake it before, it was but discourse at large.

After, when he began to be upon the approaches of his pretended design of the mine, and was come to Trinidad, he fell sick in some extremity and in doubt of life (as was thought): at what time he was moved by some principal persons about him upon two points, in case he should decease: The one, that he would nominate a general to succeed him; The other that he would give some direction for prosecution of the action of the mine. To the first he made answer that his commission could not be set over, and therefore left them to agree of that among themselves: but for the mine, he professed he could give them

[1] Letter to George Lord Carew of Clopton (afterwards Earl of Totnes). Edwards's Life of Ralegh. Vol. ii. p. 375. "Yea, those very Spaniards which we encountered at St. Thome did of late years murder 36 of Mr. Hall's men, of London, and mine," etc.

[2] "It is true that though I acquainted his M. with my intent to land in Guiana, yet I never made it known to his M. that the Spaniards had any footing there, neither had I any authority by my patent to remove the Spaniards from thence; and therefore his M. had no interest in the attempt of St. Thome by any foreknowledge thereof in his M. But knowing his Majesty's title to the country to be the best," etc. *Id. ibid.*

[3] "And being confronted with Captains St. Leger and Pennington, confessed that he proposed the taking of the Mexico fleet, if the mine failed." Sir Julius Cæsar's notes of the trial before the Commissioners, quoted in § 7, p. 367.

no direction; and stayed not there, but told them there was another course (which he did particularise unto them to be a French commission) whereby they might do themselves most good upon the Spaniards.[1]

When he was upon recovery, he despatched the land-forces pretended for the mine, and had designed Captain Sentleger to command in that expedition: but by reason of Sentleger's infirmity at that time, he resorted to his kinsman Captain George Raleigh, who was his Sergeant Major; in whose written commission which he gave him, he was wary enough not to express the taking of St. Thomé, but only inserted a clause of commandment, *That they should in all things obey him as they would do to himself in person*; yet in private directions and instructions, he did open himself to divers of his company that in case they should not receive some advertisement that the town was reinforced by new supplies of men (whereby the enterprise might be of too great hazard for their number) they should take the town first, telling them that the mine was but three miles distant short of the town, and inferring (as Kemish expounded it afterwards)[2] that it was in vain to meddle with the mine except the town were first taken and the Spaniards chased; for that otherwise they should but discover it and work it for the Spaniards: and when he had opened himself thus far, some of his company of the more intelligent and dutiful sort did in plain terms turn it upon him, setting before him that the taking of the town would break the peace and that they should go against the commission; whereupon most falsely and scan-

[1] See the examination of Captain John Chudleigh. "But for the other point concerning the Head, he willed them to agree upon that amongst themselves, for he could not assign his commission over; but added that he had a French commission whereby they might do themselves most good upon the Spaniard."

[2] See Captain North's examination. "But that upon the going up the river it was often in question amongst them and urged by this exam^te^ himself, why they should engage themselves in taking a town for a mine whereof he this exam^te^ and many others of them were in doubt. Whereupon Keymis said that he would not discover the mine until they had taken the town, for that if it should happen that they should not be able to beat them out, they should but labour for the Spaniards." See also Samuel Jones's letter, "Our companies that went up the river, as by the chief gentlemen at their return I was given to understand, arrived near the town of St. Thome the second day of January, where the captains desired Captain Kemis first to show them the mine, which Sir Walter had formerly said to be three or four miles nearer than the town, and that then if the Spaniard withstood them they would *vim vi repellere*. This Kemis would by no means yield to, but alledged divers reasons to the contrary: as that if the town were reinforced he should open then a mine for the King of Spain," &c.

dalously he doubted not with confidence to affirm that he had order by word of mouth from the King and his council to take the town if it were any hindrance to the digging of the mine.

But the event did sufficiently expound and manifest the direction; and yet that kind of interpretation little needed, for that young M. Raleigh (who was likest to know his father's secret) when he led his soldiers upon the town used these or the like words, *Come on my hearts, here is the mine that ye must expect, they that look for any other mine are fools.* And with this did well concur that which followed, in the prosecution of the mine after the town was taken. For this mine was not only imaginary but movable: for that which was directed to be 3 miles short of Saint Thomé was after sought 30 miles beyond S. Thomé.[1]

All this while Sir W. Raleigh stayed at Pont degallo by the space of some 9 weeks, during which time it was much noted by those that remained with him that the speech of the mine was dead (whereas men in expectation do commonly feed themselves with the talk of that they long to hear of); Nay more, after he had received news of the taking of the town, which had been the fittest time to pursue the enterprise of the mine (in regard the town that might have been the impediment was mastered), he never entertained any such design, but contrariwise, having knowledge at the same time that his son was slain (who as it seems was his only care amongst the land soldiers), he did move very inhumanly to remove, not a little from Pont degallo to Port-hercule in respect of the danger of the current (as he pretended), but to go for the Charibes many leagues off;[2] accompt-

[1] Compare Jones—"And whereas the mine was described to be three miles short of the town, they went not only three miles, but threescore leagues beyond it, till at last they were forced to return." The "three-score *leagues*," which is more than any of the other English accounts give, agrees with the Spanish. See note on the place in Jones's letter.

[2] See examination of Capt. John Chudleigh. "He saith further that while Sir Walter Ralegh remained at Trinidado, and the other companies were gone up to discover the mine, which was the space of 9 or 10 weeks, this exam^te^ heard him use no words of comfort or encouragement touching the mine; but contrariwise was desirous to have been gone to the Caribee Islands, and often moved it to his company, if they would have consented, and to have left the rest behind that were gone about the mine."

Also Jones's letter: "We parted with those forces that went in discovery of the mine about the midst of December, and heard not of them again until the 13th of February following; during which time I very seldom heard Sir Walter speak of a mine: and when he did it was with far less confidence than formerly, intermixing new projects, propounding often the taking of St. Joseph's in Trinidado, expressing the great conceit of wealth might be there among the Spaniards and the undoubted great quantities of tobacco, but all this while nothing was done.

ing (as it seemeth) the land soldiers but as *fruges consumere natos*, and having his thoughts only upon sea forces, which how they should have been employed every man may judge. And whereas some pretence is made by him as if he should leave some word at Pont degallo of direction to what place the land soldiers should follow him, it is plain he knew them at that time so distressed for victual as famine must have overtaken them before they could overtake him; at which time one of his captains told him that he had delivered out 52 men to that service, which were then at the enterprise on land, whose lives he held at a dear rate, and that he would not weigh anchor as long as he had a cable to ride by or a cake of bread to eat: So Sir Walter Raleigh finding no consent in that which he propounded, that cruel purpose was diverted.

It was also much observed that after that unfortunate return of Kemish, notwithstanding Sir W. Raleigh did publicly give out that he would question him for failing to prosecute the mine, he had him at dinner and supper and used him as familiarly and as kindly as before. And to Geo. Raleigh the Sergeant Major, to whom he did use the like discountenances in public, who took it more tenderly and complained and brake with him about it, he did open himself more plainly, telling him that he must seem to do as much as he did to give satisfaction.[1]

After all this, when the prosecution of this imaginary mine vanished and was defeated, and that his company cast a sad eye homewards, finding they were but abused, Sir Walter Raleigh called a council of his captains and held the same in his cabin, where he propounded to them that his intention and design was, First, to make to the New-found lands and there to revictual and refresh his ships; and thence to go to the Western Islands, and there to lie in wait to meet with the Mexico fleet, or to surprise some Carracks;[2] and so having gotten treasure which might

Those that were absent so slightly respected, especially the land men, that he would often say for the most of them it was no matter whether ever they returned or no, they were good for nothing but to eat victuals, and were sent to sea on purpose that their friends might be rid of them; and divers times propounded to go away and leave them, to which none of the captains would ever agree." 'Notes and Queries,' Jan. 5, '61.

[1] See Captain North's examination; and compare Jones: "Sir Walter protested to the Captains (as most of them told me) his own innocency, which to approve he would call Kemis to a public account in their presence before he spake with him privately, which he never performed."

Compare Captain Charles Parker's letter to Captain Alley, 22 March, 1617-8.

make him welcome into any foreign country, to take some new course for his future fortunes, valuing himself as a man of great enterprise and fame abroad; but then and at divers times he did directly and openly declare that it was no coming for England, for that he knew not how things would be construed,[1] and that he (for his part) would never put his head under the King's girdle except he first saw the great seal for his pardon.

At which time, his cogitations embracing east and west rather than any return into his country, he did in particular make promise to a principal commander in his company, to give him a ship to go into the East Indies, if he would accompany him thither.[2] But according to his first project he went to the New found Land, which he needed not to have done if his purpose had been for England (for that he had victuals enough and to spare for that journey), and there at New found Land his other company having formerly dispersed and forsaken him, his own company which was in his own ship began likewise to mutine. And although some old pirates either by his inciting or out of fear of their own case were fierce and violent for the sea, and against the return, yet the far greater number were for the return; at which time himself got aland and stood upon the sea bank and put it to a question whether they should return for England or land at New found Land: Where upon there was a division of voices, the one part to the Starboard and the other to the Larboard; of which that part which was for the return for England was two parts of three; and would by no means be drawn to set foot on land, but kept themselves in the ship where they were sure they were masters; which he perceiving, for fear of further

"I will inform you as near as I can what we that stay shall trust to. We have divided ourselves already. Witney and Woulaston are consorted to look for homeward-bound men. The Admiral, Vice-Admiral Sir John Ferne will for New-found-land to revictual, and after to the Western Islands to look for homeward-bound men. For my part by the permission of God I will make a voyage or bury myself in the sea. So I pray you make known to my friends. About the latter end of August I hope we shall have feathered our nest."

[1] Compare Jones: "Sir Warham St. Leger (as I have often heard him very confidently report) privately one day desired to know of Sir Walter, whether he intended to come for England or no? To which he answered (with reverence to God and your Lordships be it spoken) that by God he would never come there; for if they got him there they would hang him, or to that purpose. Being desired then by Sir Warham to tell him what course he would take, he said he would go to Newfoundland, victual and trim his ships, and then lie off about the Iles of the Azores to wait for some of the homeward-bound Spaniards; that he might get something to bid himself welcome to France or elsewhere."

[2] I have not met with the authority for this.

mutiny professed in dissimulation that he himself was for the return into England, and came and stood amongst them that had most voices; but nevertheless, after that he despaired to draw his company to follow him further, he made offer of his own ship (which was of great value) to his company, if they would set him aboard a French barque.[1] The like offer he made when he came upon the coast of Ireland to some of his chief officers there.

[1] I have not met with any better authority for this statement than Sir Lewis Stucley's petition: where, recounting Ralegh's attempts to escape from justice, he says, "First at sea, upon his return, making motion to be set on shore in France, and to quit his ship to his company on that condition; for the which he was blocked up in his cabin a month together, *as himself hath confessed unto me*, and is to be proved by divers of his company."

The occasion alluded to appears to be the same of which in his last speech he gave the following account—which is not given in Mr. Jardine's report of it. I cannot understand why, for it is in both the MSS. in the Record Office, though not exactly in the same place.

"It was told the King that I was brought into England by force by my company and that I came not home willingly, nor submitted myself to the King's goodness and mercy or put myself into the King's hands, but that my company constrained and enforced my coming home by violence. There are divers gentlemen in England that know the contrary: namely, Mr. Charles Parker, my Lo. Monteagle's brother, my Lord North's brother, Mr. Henry Knevett, with divers others, besides 150 soldiers and mariners in my ship; which can also testify that when my voyage succeeded not, and when I resolved to return home, I was mutined upon by my company because I would not turn pirate, forced to my cabin, there kept prisoner, the gunner's room manned against me, and divers of my followers who went thither for their weapons beaten and evil entreated; and in the end constrained (else I had been thrown into the sea) to take my corporal oath not to return into England without their consent. So for fear of my life I took that oath, being forced to go into the gunnery, they disdaining to come unto me. Afterwards when I was at liberty again, by fair means I won the Master Gunner and some 10 or 12 of the chief of their faction to desist from their purpose, intending at my coming home to procure their pardons. By persuasion, money, cloth and wine, which will win mariners, I prevailed with the rest, promising before my return into England to do my best to procure their pardons, there being but four of them yet unpardoned. After which we came for Ireland, where they desired to put for the north parts, because they were inhabited by the Redshanks; but I won them to come to the south parts, where there is a civil government habited with much English, hoping there to have written to his M. for their pardons, and in the mean time disposed some in Ireland, other some in Devon and Cornwall, and appointed them where they might have been safe till they were pardoned; whence I came to Plymouth, w^h^ (I protest before God) ere I could accomplish cost me 125*l.* that I might the better come from them, or else there had been no coming home: which showeth my resolute intent to come home again. By which story it may appear whether I did voluntarily submit myself to the goodness and mercy of the K. or not. And I am glad I have here so honourable a witness as my Lord Arundel," etc.

All that Lord Arundel could testify was that he had obtained from Ralegh himself a *promise* that he *would* return to England. What the other witnesses to whom he appeals could say, we do not know: for this question concerning the mutiny and the dispute about coming home was not one of those which were asked on the 17th of September: having been probably the subject of a later examination, of which we have no record. But we know from Sir Julius Cæsar's note that it formed part of the formal charge which Ralegh was called on to answer before the Commissioners. And therefore we may conclude that they had witnesses who gave a different version of the story. The question seems to have been put

But about the time of his arrival upon the coast of Ireland, the forcing and sacking of St. Thomé, and the firing of the town, and the putting the Spaniards to the sword, was noised abroad in all parts, and was by special advertisement come unto the knowledge of the Count de Gondomar, then ambassador for the King of Spain with his Majesty, who thereupon prayed audience of his Majesty and with great instance demanded justice against the persons and their goods (who had committed those outrages and made those spoils upon his Majesty's[1] subjects) according to his Majesty's promise and the treaty of peace. Whereupon his Majesty published his royal proclamation for the discovery of the truth of Raleigh's proceedings and the advancement of justice. Notwithstanding all which, his Majesty used a gracious and mild course towards Sir Walter Raleigh, sending down Sir L. Stucley, Vice Admiral of the county of Devon, to bring Sir Walter Raleigh in fair manner, and as his health would give leave, by easy journeys to London. For about this time Sir Walter Raleigh was come from Ireland into England, into the port of Plymouth, where it was easy to discern with what good will he came thither by his immediate attempt to escape from thence; for soon after his coming to Plymouth before he was under guard he dealt with the owner of a French barque (pretending it was for a gentleman a friend of his) to make ready his barque for a passage, and offered him twelve crowns for his pains:

to Samuel Jones, whose report may be compared with the two versions now before us.

"At Mœnis, the 21st of March, the Captains, hearing of Kemis his untimely death, presumed that they had been much abused in this project by Kemis or Sir Walter or both; and considering with themselves their men were ready to mutiny, and would not follow them any longer if they followed Sir Walter, but would carry the ships where they pleased; Sir Walter's uncertainty and many delays; resolved all to leave him, and consort no longer with him; which they within few days actually did.

"And though at first they were not resolved to come directly into England; yet within few days upon better consideration they thought it better to refer themselves to his Majesty's princely clemency, and to leave off that voyage with so great loss, than by longer staying out to incur his high displeasure; and so made for England. As for Sir Walter's return, whether it were willing or constrained, all that I know of it is by the report of some gentlemen then in his ship, who relate it thus—Near the bank of Newfoundland there began a mutiny among the seamen: some of them, weary of the voyage, desiring to be at home for better employment; others, which had formerly been pirates, would stay at sea till they had gotten something. Sir Walter, to appease this tumult, came up from his cabin, read his Majesty's commission to them, and lastly put it to their own choice by most voices what they should do; giving, as I hear, his own voice at that time very confidently for England." ('Notes and Queries,' Jan. 5, '61, p. 7.)

[1] "Maiesties" in original. I think it should be 'Master's.'

And one night he went in a little boat to have seen the barque, that should have transported him, but the night being very dark he missed of the barque, and came back again, nothing done; wherein by the way appears that it was not any train laid for him by Sir Lewis Stucley or any other (as was voiced) to move or tempt him to an escape, but that he had a purpose to fly and escape from his first arrival into England.

But in this his purpose he grew to be more resolute and fixed, after that the Lords of his Majesty's Council, observing the delays in his coming up, had sent unto Stucley some quick letters for the hastening thereof. But thereupon as his desire of escape increased, so did the difficulty thereof increase also; for that Stucley from that time forth kept a better guard upon him, whereof he took that apprehension, in so much as (knowing Stucley to be witty and watchful) he grew to an opinion that it would be impossible for him to escape except he could win one of these two points; either to corrupt Stucley, or at least to get to have some liberty when he came to London of remaining in his own house; for guiltiness did tell him that upon his coming to London it was like he should be laid prisoner in the Tower. Wherefore he saw no other way but in his journey to London to counterfeit sickness in such a manner as might in commiseration of his extremity move his Majesty to permit him to remain in his own house, where he assured himself ere long to plot an opportunity of an escape: And having in his company one Mannowry, a French man, a professor of physic, and one that had many chemical receipts, he practised by crowns and promises[1] to draw him into his consort, the better to make faith of his counterfeiting to be sick; the story whereof Mannowry himself reporteth to have passed in this manner.[2]

[1] 'by crowns and promised' in the original.

[2] In the original a blank page is interposed here: apparently for the purpose of distinguishing what follows as resting only upon the testimony of Mannoury. It is rather singular that while this is almost the only passage in Ralegh's life which his most devoted admirers feel to be unworthy of him, it is also the only part of the story told in this Declaration which most of them are ready to accept without question as true. If the part which he is here described as acting was 'ignominious,' why is it supposed to be described truly? Mannoury's authority does not stand so high as to oblige us to believe what is improbable. I believe it myself because it strikes me as eminently characteristic all through, and I do not see why it was more ignominious in Ralegh to counterfeit a contagious disease than in Brutus to counterfeit madness. It was a stratagem for the recovery of his liberty, executed with admirable skill and spirit.

Mr. Edwards says (vol. i. p. 664) that after Ralegh's death Mannoury declared that Stucley "had bribed him both to make traps for his captive and *to invent such*

Upon Saturday the 25 of July, Sir Walter Raleigh, Sir Lewis Stucley, and Mannowrie went to lie at Mr. Drake's, where the letters of commission from the Privy Council were brought unto Sir Lewis Stucley by one of his Majesty's messengers, which caused a sudden departure with much more haste than was expected before; and the countenance of Sir Walter Raleigh was much changed after Sir Lewis Stucley had shewed the commission; for Mannourie saw him from the stair-head (he being alone in his chamber, the door standing half open) how he stamped with his feet and pulled himself by the hair, swearing in these words, *God's wounds, is it possible my fortune should return upon me thus again?*

From Mr. Drake's they went on their journey to the house of Mr. Horsey, distant from thence four miles or thereabouts.

speeches and proposals as might usefully be given in the way of depositions against Ralegh;" and that these "were very carefully worked up by Lord Bacon in his too famous Declaration." But he refers to no authority and adds no particulars. If he had given his readers any means of guessing *which* passages in the Declaration are supposed to be grounded upon depositions thus obtained, I would have set a note of warning against them. For I hold the Declaration to be of so much value as a historical authority that the correction or indication of any error in it is a piece of good service. But as far as I can see, the only statements in it which can possibly be referred to "speeches and proposals" invented by Mannoury are those which profess to be part of the story as Mannoury told it. If he confessed *afterwards* that his story was false from beginning to end, it was not less the story as he himself had reported it. The truth is that Mannoury's evidence is of very little importance. No part of the case which is really material depends upon it. What it proves, if true, is that Ralegh's confidence in the justice either of his cause or of his judges was not strong enough to induce him to submit himself to judgment, if he could avoid it. And so much was fully proved by other evidence, and not denied by Ralegh himself.

In the absence of all reference to Mr. Edwards's authority, I must presume that his information came from the following passage in a letter from Lorkin to Puckering dated 16 Feb. 1618-9: which though differing considerably otherwise, agrees with his own statement in this—that it throws no further light on the question. "Mannoury the French apothecary, who joined with Stucley in the accusation of Sir Walter Ralegh, is taken at Plymouth for clipping of gold, as was his companion. His examination was sent up hither to the King, wherein he [confessed] (as I hear from Sir Robert Winde, cupbearer I think to his Majesty, who saith he read the examination) *that his accusation against Ralegh was false, and that he was moved thereto by the practice and importunity of Stucley;* and now acknowledges this his present miserable condition to be a judgment of God upon him for that." (Harl. MSS. 7002. f. 450.) The question still is, *which* accusation? Probably that which Ralegh so earnestly denied on the scaffold—namely, that he had "spoken hateful and traitorous words of the King's person." Where Mr. Edwards got his hint of "speeches and proposals such as might be usefully given by way of depositions" and which "were carefully worked up in the Declaration," I do not know. His authority, (if Lorkin was his authority) speaks only of a false accusation, and does not give the slightest countenance to the insinuation that Mannoury's reports of what Ralegh said or proposed had been worked up by the writers of the Declaration into depositions against him. What the writers of the Declaration were careful about, was to make it clear that the story which follows was the story *as Mannoury told it.*

It was in that hour that Sir Walter Raleigh began first to cause Mannowrie to be sounded what was in his heart by an old domestic of his called Captain King, who there began to discourse unto Mannowrie of the infortunity of his master, and amongst other things, said thus; *I would we were all at Paris:* To whom Mannowrie answered *I would we were all at London; alas, what shall we do at Paris? Because,* quoth King, *that as soon as we come to London they will commit Sir Walter Raleigh to the Tower, and cut off his head:* whereupon Mannowrie answered, That he hoped better than so, and that he was sorry for his ill fortune; and that according to his small ability he was ready to do him all honest service he could, so it might be done without offence.

After dinner, it being Sunday, Sir Walter Raleigh departed from Master Horsey his house and went to Sherburne, and in the way, when he came within view thereof, turning to Mannowry and shewing him the place and the territory about it, he said unto him sighing that all that was his, and that the King had unjustly taken it from him. He and Stucley lay not at Sherburne, but were invited to the house of old Master Parham: Mannowry and their train went to lie at Sherburne at the sign of the George. The next day, being Monday, the seven and twentieth of July, Mannowry went to them, and from thence they took their way towards Salisbury, five and thirty miles from Sherburne; and arriving there, Sir Walter Raleigh, going afoot down the hill, addressed himself unto Mannowry and asked him if he had any of his vomits or other medicines; which he telling him that he had, he prayed him to make one ready against the next morning, and to tell nobody thereof. *I know (quoth he) that it is good for me to evacuate many bad humours, and by this means I shall gain time to work my friends, give order for my affairs, and, it may be, pacify his Majesty before my coming to London; for I know well that as soon as I come there I shall to the Tower, and that they will cut off my head, if I use no means to escape it; which I cannot do without counterfeiting to be sick, which your vomits will effect without suspicion.* For which cause the same evening, as soon as he arrived, he laid him down upon a bed, complaining much of his head, and blaming his great day's journey from Sherburne to Salisbury (notwithstanding he supped very well), but after supper

he seemed to be surprised with a dimness of sight, by a swimming or giddiness in his head, and holding his hand before his face he rose from his bed, and being led by the arm by Sir Lewis Stucley, he staggered so, that he struck his head with some violence against a post of the gallery before his chamber, which made Sir Lewis Stucley think that he was sick indeed; in which belief Mannowry left him for that time.

The next day in the morning, he sent his lady his wife and most of his servants to London, and also Captain King: and Cuthbert and Mannowry and Sir Lewis Stucley being in Stucley's chamber, a servant of the said Sir Walter named Robine came and told them that his master was out of his wits; and that he was naked in his shirt upon all four, scratching and biting the rushes upon the planks, which greatly pitied Sir Lewis Stucley, who rising in haste sent Mannowry to him, who when he came found him gotten again to his bed, and asking him what he ailed, he answered, he ailed nothing, but that he did it of purpose. And Sir W. Raleigh asking him for his vomit, he gave it to him, who made no bones but swallowed it down incontinently: at which time Sir L. Stucley coming in, Sir Walter began again to cry and rave; Then Mannoury went out of the chamber, and the vomit which he had given him was an hour and a half before it wrought: but in the mean time Sir Walter Raleigh began to draw up his legs and arms all on a heap, as it had been in a fit of convulsions and contractions of his sinews; and that with such vehemency that Sir L. Stucley had much ado with the help of others to pull out straight sometimes an arm, sometimes a leg; which against all the strength they had he would draw up again as it was before, whereat the said Sir L. Stucley took great compassion, causing him to be well rubbed and chafed: which Sir Walter Raleigh himself afterwards told unto Mannowry, laughing that he had well exercised Sir Lewis Stucley and taught him to be a physician.

This feigned fit being thus past, Sir Walter Raleigh called Mannowry, and when he came, he prayed him to stay by him, and said he would take some rest. Mannowry shut the door, and being alone with him, Sir W. Raleigh told him that his vomit had done nothing as yet, and said that he would take another more violent; but Mannowry assuring him that without doubt it would work, he contented himself, and asked Mannowry

if he could invent anything that might make him look horrible and loathsome outwardly, without offending the principal parts or making him sick inwardly: Mannowry studied a little and then told him, that he would make a composition presently of certain things which would make him like a leper from head to foot, without doing him any harm; which at his entreaty he effected speedily; at which time Sir Walter Raleigh gave him the reason why he did it, telling him that his being in that case would make the Lords of the Council afraid to come near him and move them with more pity to favour him. Soon after that Mannowry had put this composition upon his brow, his arms, and his breasts, Sir Lewis Stucley came into the chamber, and Mannowry went away, and Sir Lewis Stucley perceiving the places where Mannowry had put this composition to be all pimpled, his face full of great blisters of divers colours, having in the midst a little touch of yellow, and round about like a purple colour, and all the rest of his skin as it were inflamed with heat, he began to apprehend the danger of the disease, that it was contagious, and being very much astonished at the sudden accident, he asked Mannowry what he thought thereof, but Mannowry judged it fit to conceal it from him at that time, seeing Sir Walter Raleigh had not yet told him that he meant to fly out of England, but that it was only to gain time to satisfy his Majesty.

Upon Mannowry his uncertain answer to Sir Lewis Stucley touching Sir Walter Raleigh his malady, Stucley resolved to go to my Lord Bishop of Ely, now of Winchester, to relate unto him in what case Sir Walter Raleigh was, and brought unto Raleigh two physicians to see and visit him; who being come could tell nothing of what humour the said sickness was composed. There came also a third, a bachelor in physic, who all could not by all that they could do discover this disease; only they gave their opinion and advice, that the patient could not be exposed to the air without manifest peril of his life, and thereof they made their report in writing, unto which Mannowry also set his hand.

Sir Walter Raleigh, seeing that all these things fell out according to his intention, was exceedingly contented thereat, especially that in the presence of the said physicians the vomit began to work both upwards and downwards. And because he

doubted that the physicians would ask to see his water, he prayed Mannowry to do something to make it seem troubled and bad, which to content him, (giving him the urinal into his bed) Mannowry rubbed the inside of the glass with a certain drug, which as soon as he had made water therein, the urine even in the hands of the physicians turned all into an earthy humour, of a blackish colour, and made the water also to have an ill savour, which made the physicians judge the disease to be mortal, and without remedy but from Heaven.

He made Mannowry also to tie his arms about with black silk ribband, which he took from his poyniard, to try if it would distemper the pulse, but that succeeded not as he thought it would. The day following he called Mannowry and prayed him to make some more such blisters upon him, as upon his nose, his head, his thighs, and his legs: which Mannowry having done, it succeeded according to his desire, for which he was very jocund and merry with Mannowry, and said unto him that the evacuation which his physic had caused had so opened his stomach that he was exceeding hungry, and prayed Mannowry that he would go and buy him some meat secretly; for, quoth he, if I eat publicly, it will be seen that I am not sick; so according to his request, Mannowry went to the White Hart in Salisbury and bought him a leg of mutton and three loaves, which he ate in secret, and by this subtilty it was thought that he lived three days without eating, but not without drink: This he continued until Friday the last of July, seeming always to be sick in the presence of company, and nevertheless, being alone, he writ his Declaration or Apology, and prayed Mannowry to transcribe it, which was since presented to his Majesty.

The same evening Sir Lewis Stucley discoursing upon his sickness, and whence it should proceed, Sir Walter Raleigh said in these words, *As God save me, I think I have taken poison where I lay the night before I came to this town; I know that Master Parham is a great lover of the King of Spain, and a Papist, and that he keeps always a priest in his house; but I will not have any of you to speak of it, nor you Monsieur* (quoth he), speaking to Mannowry. Also Sir Walter Raleigh, his chamber doors being shut, walked up and down, and only Mannowry with him, there naked in his shirt, and took a looking-glass, and looking upon the spots in his face, whereat he took

great pleasure, and laughing, said unto Mannowry these words, *We shall laugh well one day for having thus cozened and beguiled the King, his Council, and the physicians, and the Spaniards and all.*

Upon the Saturday that his Majesty arrived at Salisbury, which was the first of August, Sir Walter Raleigh desired to speak with Mannowry in secret, and seeming to have a very great apprehension of something, and having made him shut the doors, prayed him to give him a red leather coffer, which was within another coffer, which when he had, he was a good while looking in it, and then called Mannowry, and putting nine pieces of Spanish money of gold into his hand, he said thus: *There is twenty crowns in pistolets, which I give you for your physical receipt, and the victual you bought me, and I will give you fifty pound a year if you will do that which I shall tell you, and if it happen that Sir Lewis Stucley do ask you what conference you had with me, tell him that you comfort me in mine adversity, and that I make you no other answer than thus, as is here written,* which he had already written with his own hand in a little piece of paper for Mannowry's instruction as followeth: *Ve la M. Mannowry l' acceptance de tout mes travaus, pertie de mon estat, et de mon fils, mes maladies & doleurs. Ve la c' effect de mon confidence au Roy.* Which paper of Raleigh's handwriting Mannowry produced.

And now Sir Walter Raleigh began to practise with Mannowry, and to tell him that he would fly and get himself out of England, and that if Mannowry would aid him in his escape, it was all in his power, and that Sir Lewis Stucley trusted in nobody but Mannowry; whereupon Mannowry made him an overture, that at his coming to London he should keep himself close in a friend's house of Mannowry's in Shire-lane in London; whereunto he seemed to incline and found Mannowry's advice good for a while; but in the end he told him that he was resolved otherwise, and that he had already sent Captain King to hire him a bark below Gravesend, which would go with all winds, and another little boat to carry him to it; For, quoth he, to hide myself in London, I should be always in fear to be discovered by the general searchers that are there; but to escape, I must get leave to go to my house, and being there I will handle the matter so that I will escape out of the hands of Sir Lewis

Stucley by a back-door, and get me into a boat; for nobody will doubt that I can go on foot seeing me so feeble as I seem to be. And then Raleigh having mused awhile without speaking, Mannowry asked him, *Sir, wherefore will you fly? Your Apology, and your last Declaration, do not they justify you sufficiently?* Then, all in choler, Raleigh answered him in English thus: *Never tell me more; a man that fears is never secure;* which fashion of his put Mannowry to silence for that time.

Now there rested nothing but his Majesty's licence to permit him to go to his own house, without which (he said) he could not possibly escape. This licence was after granted him by the means of Master Vice-Chamberlain and Master Secretary Naunton; which being obtained, Mannowry took occasion to say to him, *That hereby one might see that his Majesty had no meaning to take his life, seeing that he suffered him to go to his own house to recover his health. No* (quoth Raleigh) *they used all those kinds of flatteries to the Duke of Byron, to draw him fairly to the prison, and then they cut off his head; I know that they have concluded amongst them that it is expedient that a man should die, to reassure the traffic which I have broken in Spain.* And thereupon brake forth into most hateful and traitorous words against the King's own person, ending in a menace and bravery, *That if he could save himself for that time, he would plot such plots as should make the King think himself happy to send for him again and render him his estate with advantage; yea, and force the King of Spain to write into England in his favour.*[1]

Mannowry at that time did ask him further, if he escaped, what should become of Sir Lewis Stucley? and whether he should be put to death for him or not, and whether he should

[1] I am inclined to think that this was *intended* for a report of words really spoken, but that the reporter misunderstood and so *mis*reported them. Compare what Raleigh said to Sir T. Wilson, "his hope was that he being in France, the Spanish Ambassador there,—fearing what hurt he might do to Spain, being in France,—would procure the King of Spain to write to his M. to call him home and give him his pardon." (See Appendix at the end of this section.) If Mannowry heard him say anything like this (which is not at all unlikely) he might easily misinterpret the words into the sense of the text. The misrepresentation is indeed complete—amounting to a reversal of the meaning. For Raleigh meant plots against the King of Spain, and Mannowry understood him to mean plots against the King of England. But it is just the sort of mistake that a foreigner would be liable to fall into.

lose his office and estate? *Not to death* (quoth Raleigh) *but he will be imprisoned for a while, but his lands the King cannot have, for that they are already assured to his eldest son; and for the rest it was no part of his care.* Mannowry further asked him if it were not treason in himself to be aiding to his escape. *No* (quoth he) *for that you are a stranger; nevertheless you must not be known of anything, for then you will be sure to be put in prison.* In conclusion, Mannowry demanded of him yet further, *But what if it be discovered that I had any hand in your escape? Why* (quoth he) *follow me into France (that is your country) and quit all, and I will make you amends for all.*

After, Raleigh went on his journey to Andover,[1] and so to Hartford-bridge, and from thence to Staines, during which time Sir Lewis Stucley being made acquainted by Mannowry with Raleigh his purpose to escape,[2] used extraordinary diligence in guards and watches upon him: which Raleigh perceiving, said to Mannowry at Staines: *I perceive well, it is not possible for me to escape by our two means alone, Stucley is so watchful and sets such strait guard upon me, and will be too hard for us for all our cunnings, therefore there is no way but to make him of our counsel; and if we can persuade him to let me save myself, I will give him in hand two hundred pounds sterling worth:* and thereupon drew forth a jewel, and showed it to Mannowry, and gave it into his hand, made in the fashion of hail powdered with diamonds, with a ruby in the midst, which he valued at 150 pound sterling, and said, *besides this jewel he shall have* 50 *pound in money; I pray you go tell him so from me, and persuade him to it, I know he will trust you.*

Mannowry went presently to Stucley and told him as before, and concluded with him that Mannowry should report back to

[1] "At Andover," says Stucley in his Apology, "I first discovered he had a design abatching, and that he had not omitted to make use as he thought to advantage of all his supposed sufferings, and Mr. Vice-Chamberlain's pity, who got him leave," &c.

[2] Why Mannoury, who had till now been conspiring with Ralegh to deceive Stucley, should now have resolved to conspire with Stucley to deceive Ralegh, is not explained. That it was because he now knew, what he had not known before, that Ralegh was plotting an escape, and not merely a delay (which I suppose was the colour he had put upon it, see above, p. 405) seems to me unlikely. I should rather suppose that the last conversation had alarmed him for his own safety, and suggested the expediency of making himself an honest man as soon as possible.

Raleigh that he would accept of his offer, and bade him tell Raleigh also that he was content to do as he desired; but he would chuse rather to go away with him than to tarry behind with shame and reproach, and he bade Mannowry ask him further how he thought he could do this without losing his office of Vice-Admiral, which cost him six hundred pounds, and how they should live afterwards; and to what place they should go, and what means he would carry with him, to furnish this intended escape; which Mannowry did, and was answered by the said Raleigh, and prayed to tell Stucley that if he would swear unto him not to discover him, he would tell him his whole intent; and that for the first point, though Stucley should lose his office, yet he should be no loser upon the matter; and for afterwards, as soon as he was gotten into France or Holland his wife was to send him a thousand pounds sterling, and that he carried with him only a thousand crowns in money and jewels to serve for the present in his escape. But after supper, Raleigh said unto Mannowry, Oh, if I could escape without Stucley I should do bravely; *but it is no matter* (said he) *I'll carry him along, and afterwards I'll despatch myself of him well enough.* And after, Mannowry relating all that had passed to Stucley, brought them together, at which time Raleigh showed the jewel to Stucley; and he making show to be content prayed him a little respite to dispose of his office, whereupon Mannowry seeing them so accorded upon the matter in appearance, took his leave of them to go to London, and in the morning Mannowry upon the taking of his leave said to Raleigh that he did not think to see him again while he was in England; whereupon Raleigh gave him a letter addressed to Mistress Herrys of Radford, that she should deliver him an iron furnace with a distillatory of copper belonging unto it, and charged him to tell every man he met that he was sick, and that he left him in an extreme looseness that very night.[1]

But Raleigh having formerly despatched a messenger to London to prepare him a barque for his escape, came at last to London, and having won his purpose (by these former devices of feigned sickness) to be spared from imprisonment in the Tower, and to be

[1] Though there is no mark of separation here, more than an ordinary paragraph, I presume we are to understand that Mannoury's relation ends here.

permitted to remain at his own house till his better recovery, there fell out an accident which gave him great hopes and encouragement speedily to facilitate his intended design for escape. For as he came on his way to London, in his inn at Brentford,[1] there came unto him a Frenchman named La Chesnay, a follower of Le Clere, last agent here for his Majesty's dearest brother the French King, who told him that the French agent was very desirous to speak with him, as soon as might be after his arrival in London, for matters greatly concerning the said Sir Walter's weal and safety, as in effect it fell out, that the very next night after his arrival at London, the said Le Clere and La Chesnay came unto him to his house, and there did the said Le Clere offer unto him a French barque, which he had prepared for him to escape in, and *withal his letters recommendatory for his safe conduct and reception to the Governor of Calais, and to send a gentleman expressly that should attend and meet him there;* to which offer of his, Raleigh, after some questions passed, *finding the French barque not to be so ready nor so fit as that himself had formerly provided,* gave him thanks, and told him that he would make use of his own barque, *but for his letters and the rest of his offer he should be beholding to him, because his acquaintance in France was worn out.* So passionately bent was he upon his escape, as that he did not forbear to trust his life, and to communicate a secret importing him so near, upon his *first acquaintance, and unto a stranger,* whom he hath since confessed *that he never saw before.* And thus after two nights' stay, the third night he made an actual attempt to escape, and was in boat towards his ship, but was by

[1] "Between Staines and London I added to the knowledge of his purpose a certain notion of his discovered practice; wherewithal his M. being informed I had shortly after the injunction of his M. to secrecy, and commission to do as I have done." Stucley's Apology. Sir W. St. John, who had made the discovery, and was hastening to the King at Salisbury with the news of it, met Stucley at Bagshot and told him. See his declaration in the appendix.

According to Mr. Gardiner, Stucley also communicated to the King the substance of the interview between Ralegh and Le Clerc; which he speaks of as the act of a spy, of which he should have been ashamed. (P. Charles, Vol. i. p. 139.) I should have thought that to prevent a prisoner from escaping, both by spying into his plots and revealing them to the authorities, was the duty of a man charged with the custody of him.

In the hope of discovering more, the King authorised Stucley to pretend complicity. And certainly, if *reciprocity* was to be the rule, Ralegh could not reasonably have objected to Stucley's taking his turn in deception—if he knew how.

Stucley arrested,[1] brought back, and delivered into the custody of the Lieutenant of the Tower.

For these his great and heinous offences, in acts of hostility upon his Majesty's confederates, depredations, and abuses as well of his commission as of his Majesty's subjects under his charge, impostures, attempts of escape, declining his Majesty's justice, and the rest, evidently proved or confessed by himself, he had made himself utterly unworthy of his Majesty's further mercy: and because he could not by law be judicially called in question, for that his former attainder of Treason is the highest and last work of the law (whereby he was *civiliter mortuus*), his Majesty was enforced (except attainders should become privileges for all subsequent offences) to resolve to have him executed upon his former attainder.

His Majesty's just and honourable proceedings being thus made manifest to all his good subjects by this preceding Declaration, not founded upon conjectures or likelihoods, but either upon confession of the party himself, or upon the examination of divers unsuspected witnesses, he leaves it to the world to judge how he could either have satisfied his own justice (his honourable intentions having been so perverted and abused by the said Sir W. Raleigh) or yet make the uprightness of the same his intentions appear to his dearest brother the King of Spain, if he had not by a legal punishment of the offender given an example, as well of terror to all his other subjects not to abuse his gracious meanings in taking contrary courses for the attaining to their own unlawful ends, as also of demonstration to all other foreign Princes and States, whereby they might rest assured of his Majesty's honourable proceeding with them, when any the like case shall occur: By which means his Majesty may the more assuredly expect and claim an honourable concurrence and

[1] Stucley had pretended to be going with him, and arrangements had been made for the arrest. Chamberlain's account of it gives the substance in the fewest words. "Sir Walter Ralegh went to the Tower on Monday, having attempted the night before to make an escape and get over sea: but he was bewrayed or in a sort betrayed by Sir Lewis Stukley (who had the charge of him) and brought back by certain boats that waited for him about Woolwich. Sir Lewis did nourish him in the humour, with promise to assist and accompany him, but it was a foul *pas de clerc*, for an old cosener to be so cosened and overtaken." Letter to Carleton, 15 Aug. 1618. Sir William St. John's declaration, which will be found in the appendix, p. 415, explains how the plot to escape came to the knowledge both of Stucley and the King.

a reciprocal correspondence from them upon any the like occasion. But as to Sir Walter Raleigh his confession at his death, what he confessed or denied touching any the points of this Declaration, his Majesty leaves him and his conscience therein to God, as was said in the beginning of this discourse. For Sovereign Princes cannot make a true judgment upon the bare speeches or asseverations of a delinquent at the time of his death, but their judgment must be founded upon examinations, re-examinations, and confrontments, and such like real proofs, as all this former discourse is made up and built upon; all the material and most important of the said examinations being taken under the hands of the examinates that could write, and that in the presence of no fewer than six of his Majesty's Privy Council, and attested by their alike several subscriptions under their hands, which were my Lords, the Archbishop of Canterbury, the Lord Verulam Lord Chancellor of England, the Earl of Worcester Lord Privy Seal, Master Secretary Naunton, the Master of the Rolls, and Sir Edward Coke.

FINIS.

Appendix.

Sir Lewes Stukelye's Appollogie, writte with his owne hand. MS. Ashmole. 830. 20.[1]

I know full well that all actions of men of whatsoever condition in these censorious times shall be scanned, as already I have been informed mine have been in the execution of my sovereign's late commands: even since yesterday that I performed the same, committing Sir Walter Ralegh and some of his adherents and instruments to his intended scape from my custody to the Tower. I have been accused for conspiracy and falsehood towards him, I therefore hold it behooveful for me to recollect the passages of my employment wherewith I desire to satisfy all good and honest men.

By a letter bearing date the 12th of June from the right honourable the Lord High Admiral of England I had the first commandment given me for the apprehension of Sir Walter Ralegh, Knt., whose ship formerly had

[1] Ralegh's Works (Oxford Edition), vol. viii. p. 783. Not dated, but written apparently the day after Ralegh was committed to the Tower. See the opening paragraph. I have modernised the spelling.

been by Thom. Hardinge, a public notary and my deputy at Plymouth, by my command arrested.

After which I received a letter from Sir Robert Naunton, principal secretary to his Majesty, wherein was inserted a command from the King's Majesty that I should bring him to appear before the Lords.

That I strained my commission to all the liberty I could for his advantage both in giving him time and trust, himself hath often acknowledged; and it doth, if he would do otherwise, appear by the next letter which I received from the Lords, of the 23d of July last, rebuking me of delays and vain excuses.

That at Salisbury I did him all the best offices I could, I refer me to his own conscience and to the testimony of those of the Lords that I fear me I half wearied with soliciting their Lordships above good manners for the accomplishment of all his desires. Nor had he ever an ill return or negative answer to any request I made in his behalf.

Namely to both his suits, the one by Mr. Secretary presented to his Majesty, the other by Mr. Vice-Chamberlain, the one for his retiring to his brother's house near Salisbury to recover health, the other for proceeding on towards London to his house in Broad Street, and for leave to remain there in my custody for 5 days.

I omit to repeat over the travel, pains and care I had in all his sickness, and I appeal to his conscience and the testimony of his own people, whether I declared myself friendly and lovingly or not: Nay I protest I could not have pitied those afflictions more than I did, had they befallen the son of my own body or myself.

At Andover I first discovered he had a design ahatching, and that he had not omitted to make use as he thought to advantage of all his supposed sufferings and Mr. Vice-Chamberlain's pity, who gat him from his Majesty leave to have 5 days' liberty to execute what he had plotted for his escape instead of his pretensions.

A perfect light whereof I have not yet, but credible information I had, as the event hath manifested.

Sure I am, so easy a man and so good natured did he find me, as he assayed to allure me to give condiscent to his escape. Now began I to disavow his judgment (I confess) and to disapprove his affection to me.

But when I considered how gross an abuse of his Majesty's princely goodness was here intended; forming his excellent clemency to the image of that tyranny that he hath been accused for in the practice of his life, what time he was of greatness with her Majesty of worthy memory; I could not but abhor his hypocrisy; which the better to unmask, I seemed to condiscent unto him after I was out of hope by comfortable messages from his honourable good friend or by persuasion to rectify his affection and judgment, which fear had over strongly infatuated in him to his ruin: being between Staines and London I added to the knowledge of his purpose a certain notion of his discovered practice,[1] wherewithal his Majesty being

[1] That would be from Sir W. St. John and W. Herbert. See Sir W. St. John's Declaration.

informed, I had shortly after the injunction of his Majesty to secrecy and commission to do as I have done: then was it grown the secret of the King, which to reveal or disobey had been in me treasonous treachery. Nor can there be given any reason why mine affection to any man should be other than subordinate and not contrary to my public duty: nor were his benefits anything ever to me, much less his desert, or the opportunity of his favour such as could induce any man that hath the conscience to love himself to partake with his ruin.

Sir William St. John's Declaration.[1]
August the 17, 1618.

The fourth of this instant as I remember Mr. W^m^ Herbert told me that he was made acquainted that one Samuel Kinge a servant of Sir Walter Raley's had provided a fisher (?) boat or ketch to carry away Sir Walter and himself to the foreland where he would be set on board some other ship. Mr. Herbert had this notice by one Harte, and Zachary, who were owners of the said boat. I prayed Mr. Herbert to send for these men to speak with me at my house in the Parliament Yard, who came with him; and both of them did avouch that it was true they were hired by Capt^n^ Kinge to be ready with their boat in Tilbury Hope the seventh of this, and to stay there until they should come aboard. When I and Mr. Herbert had advised that it was fit his Ma^ty^ should be made acquainted herewith, he did write a letter by me unto my Lord Chamberlain to bring me to make relation hereof. The sixth of this I met Sir W. Raleyhe on this side Bagshot, Sir Lewes Stukely being with him, and having passed by the coach I sent Mr. Herbert to pray Sir Lewis to have some conference with him, who presently came to meet me. I then asked him of Sir Wa. his health, who told me that he had a warrant to convey him to his own house in Broad Street for 4 or 5 days, for the recovery of his health. I wished him to be careful of his safe keeping, for he had plotted his escape from him. Sir Lewis told me that he had cause to suspect so much, for Sir W. had been in hand with him by large promises to give way and to go with him, which Sir Lewis wished me to tell his Ma^ty^ and that he the said Sir W. had practised with a French man that came from Plymouth in his company to assist him in his plot. The next day I came to court having formerly advised Sir Lewis to send for Mr. Herbert who would discover the whole draught unto him, and was vigilant, and would be, to prevent his escape. Thus much upon Friday night I related to his Ma^ty^. Missing to see my Lord Chamb. and doubting the deferring hereof might be of dangerous consequence, I made other means to be brought to the King.

Wm. St. John.

The Examination of Robert Mering at the Tower.
4 Septemb. 1618.[2]

The said examinate saith that the same morning that Sir Walter Ralegh was brought into the Tower, walking up and down in Mr. Lieu-

[1] Harl. MSS. 6854. f. 1. (Original, I think.) Docketed, "17 August, 1618. S^r^ W^m^ S^t^ John his Declaration touching S^r^ Walter Ralegh."

[2] Add. MSS. 19,398. f. 61.

tenant's dining chamber, the said Sir Walter said to this exam^te I thought the French Physician had been true unto me; but now I see he hath aggravated Sir Lewis Stukeley against me; for all that he hath told me of Sir Lewys Stukeley he hath told Sir Lewys Stukeley as if I had spoken it against him.

He saith also that Sir Walter Ralegh further added that he had heard that Sir Lewys Stukeley had sent that physician to the King.

Being asked whether he ever heard that the French Physician was to be set upon by the way, as he came up to London, or knoweth anything of it; He utterly denieth that he ever heard or knew of any such matter, nor could not, for that he hath been from the first day of Sir W. Ralegh's coming to the Tower close prisoner there also.

He saith that he remembereth that the Indian Cristoval de Riga was first brought to Sir W. Ralegh at Trinidado and that the first time he spoke with him was upon the open deck in the hearing of many. And that afterwards he had divers speeches with the Indian in the cabin and elsewhere.

He saith further that when the Indian had declared the mine, that Sir W. Ralegh found fault with Keymis and the rest that were sent with him that they had not examined the Indian about the mine, saying that when they could not find it themselves they had Spaniards that could have told of it; as namely the Indian, and that there were but two means to get it from him, using him well or using him hardly, and they had tried neither.

He saith also that the Indian being asked at Trinidado why he did not discover the mine to themselves, said that he had no reason to do it, for they had killed his Master and his friends, and made a drudge of him setting him to grind corn, and took away his apparel and did not respect him.

And this exam^te saith further (being asked how he knew this, not understanding the language) that Sir W. Ralegh did so interpret it, both in the hearing of this exam^te and of many others that were by.

ROBERT MEARING.

G. CANT. FR. VERULAM, Canc. E. WORCESTER.
JUL. CÆSAR. EDW. COKE.

THE EXAMINATION OF WILLIAM HERBERT, ESQ., TAKEN BEFORE THE LORDS AT WHITEHALL THE 17 SEPTEMB. 1618.[1]

Being asked whether Sir W. Ralegh did really intend a mine, or did pretend it only to abuse the State and to draw followers;

[1] Harl. MSS. 6846. f. 61. There are two other examinations in the same volume with these, which I have not printed, because they bear upon a charge which is not made in the Declaration. One is of Richard Marche a servant of Lord Carew; the other (imperfect) of Sir Lewis Stucley. They relate only to the question whether Ralegh had any intelligence with Lord Haye and Lord Carew. It seems that Stucley had charged him with *saying* that he had; which he denied. But at any rate Haye and Carew appear to have satisfied the Commissioners that it was not true, and so it was dropped.

He saith that he conceiveth Sir W. Ralegh was verily persuaded there was a mine, but not of his own sight, but upon the credit which the said Sir Walter Ralegh gave to Keymis; for that Keymis told this exam^te^ that Sir W. Ralegh was never at the mine.

Being asked whether Sir Walter Ralegh appeared to him to have former knowledge that the country of Guiana where the mine was, was inhabited by the Spaniards;

He saith that he is verily persuaded that Sir W. Ralegh and Keymis did both of them know that it was inhabited by Spaniards, and that the Town of S. Thome, which was next the mine, was a town of Spaniards.

Being asked whether the assault of the Town of S. Thome was anyways directed and avowed by Sir W. Ralegh, or whether those that were sent for the discovery of the mine did not incidently assail the same:

He saith that first for Sir W. Ralegh he can say nothing, because he was not present when the direction was given; but saith that the Spaniards did first assail them in the night time, when they were within less than half a mile of the Town, and going to consultation whether they should set upon the Town or go forward.

He saith further that amongst private gentlemen by way of talk and discourse it was moved, and much wondered, that their commission would bear them out in setting upon the Town; which was before the Captains and officers went to consult.

Being asked whether to his knowledge Sir Walter Ralegh had any commission from France, or any aid from thence;

He saith that at Plymouth openly at dinner Sir Walter Ralegh said in this exam^te's^ hearing, that he had another commission which he would show when he came to the Canary Islands; but did not express then whether it were a French commission or not, nor ever showed it as far as this exam^te^ knew; but he saith that amongst the Captains he hath heard that it was a French Commission.

Being asked who was the most inward with Sir W. Ralegh in this voyage to this exam^te's^ observation;

He saith that the man that was most noted was Captain Whitney, who went to the Newfoundland, and is now (as this exam^te^ understands) gone for the straights.

Being asked whether he heard anything of some French ships that should have come to Sir W. Ralegh this voyage to have assisted him;

He saith that he never heard anything concerning it from Sir W. Ralegh himself, but he hath heard among the Captains that there were two French ships should have come to him, and that one Fage, a French soldier, who was often with Sir Walter Ralegh and parted from him at Plymouth, should have come with them.

THE EXAMINATION OF CAPTAIN ROGER NORTH, TAKEN BEFORE THE LORDS AT WHITEHALL, 17 SEPT. 1618.

Being asked whether in his opinion Sir W. Ralegh did really intend a mine, or did pretend it only to abuse the State and to draw followers;

He saith that for his part he thinketh that Sir W. Ralegh did not believe there was any; and being asked the grounds of his so conceiving, he saith that it was partly out of Keymis his speeches and behaviour, who until such time as the Town was taken, was confident, and made no doubt in all his speeches of finding the mine; but after it was taken his errors were so gross as there appeared no likelihood of any such matter: and partly because the Moors who had lived long among the Spaniards, and came down voluntarily unto the English, and stayed at their own liberties amongst them, and being asked of such things, could never say anything of the mine; which Moors also came willingly away with them in Whitney's ship.

He saith further that after their return from seeking the mine he heard Sir Walter Ralegh say, that if there had been a mine, they could not have made any great advantage or profit of it at that time; but that he the said Sir Walter Ralegh meant to bring an example of it to save his credit with the King and the Lords, which was his chief desire.

He saith further that after Sir W. Ralegh in public had seemed to expostulate with Keymis in sharp and round fashion, yet this exam^te^ noted that within few days Keymis was private with him in his cabin as he had wont to be before, and did eat and drink with Sir W. Ralegh without any words of expostulation. And this exam^te^ remembereth further that the Sergeant Major George Ralegh, to whom Sir W. Ralegh had given bitter words upon their return, as he had done to Keymis, being troubled therewith, told this exam^te^ that Sir Walter Ralegh had said to him that he wondered he would trouble himself, considering he was to do it to give satisfaction.

Being asked whether it did appear unto him this exam^te^ that Sir W. Ralegh had former knowledge that the country of Guiana where the mine was, was inhabited by the Spaniards;

He saith that it was most manifest that he did, for that he this exam.^e^ heard Sir W. Ralegh say before he went from London, that he knew a place where they might make a saving voyage in tobacco; and that he had heard him also say as they were in the voyage, that if they could surprise the Town in the river Orenoque, they might be sure of forty thousand pounds weight or worth of tobacco.

Being asked whether the assault of S. Thome was any ways directed and avowed by Sir W. Ralegh, or whether those that were sent for the discovery of the mine did not incidently assail the same:

He saith that the commission given to the Sergeant Major imported a command that all the companies sent with him should obey him, as if Sir W. Ralegh were himself in person; and no special enterprise named:

but that upon the going up the river it was often in question amongst them, and urged by this examt^e himself, why they should engage themselves in taking of a Town, for a mine whereof he this examt^e and many others were in doubt. Whereupon Keymis said that he would not discover the mine until they had taken the Town; for that if it should happen that they should not be able to beat them out, they should but labour for the Spaniards.

And this examinate's opinion is that the Sergeant Major would do nothing against Keymis his conduct and advice.

And he saith further that they landed by commandment of the Sergeant Major and the forwardness of young Walter Ralegh, five miles short of the Town, about four o'clock in the afternoon, and they had guides of the Indians who directed them the track to the Town. And so they marched towards the Town: and the ships also went further up the river towards the same: and that this was before any shot or assault made from the Town, or before they could perceive that the Town had any knowledge of them. And that the first shot upon them that landed was from the wood at eleven o'clock at night.

Being asked whether he this examt^e knoweth that Sir W. Ralegh had or expected any commission or aid from France; and whether he had not some intention to go into France after the dissolving of his voyage, and what should be his employment there:

He saith that he heard it often reported that he had a commission from France; and doth well remember that one Fage a Frenchman, who took a liking to this examt^e's company, told him in great secret at Plymouth that he was to go into France, and to meet Sir Walter Ralegh again upon the seas, and withal shewed this examt^e a letter from a Port Town in Normandy (which he taketh to be either Newhaven or Diepe) signifying to him that two ships were in readiness for him.

And he saith that after Keymis his death Sir Walter Ralegh said in his hearing, (and as he thinks in the presence of Captain Pennington,) that he would go into France; for that he knew not how things would be interpreted in England. And one Clarke, Gunner's mate in Sir Walter Ralegh's ship, did tell this examinate that Sir Walter Ralegh told some of them who stood stiffest for the seas, that he would not bring his ship into England; which was since this examt^e's coming away.

The Examination of Captain John Chudleigh, taken before the Lords at Whitehall, 17 Sept. 1618.

He saith, that when Sir Walter Ralegh lay in great extremity of sickness, this examt^e in the presence of Captain Pennington moving him to appoint some head or chief over them, if it should please God to call him, and to give some order for prosecuting the mine, Sir Walter Ralegh would give no direction for the mine, but for the other point concerning the Head, he willed them to agree upon that amongst themselves, for he could not assign his Commission over; but added that he had a French Commission whereby they might do themselves most good upon the Spaniard.

He saith further that while Sir Walter Ralegh remained at Trinidado, and the other companies were gone up to discover the mine, which was the space of nine or ten weeks, this exam^te^ heard him use no words of comfort or encouragement touching the mine, but contrariwise was desirous to have been gone to the Caribes Islands, and often moved it to his company, if they would have consented, and to have left the rest behind that were gone about the mine.[1]

A LETTER WRITTEN BY CAPTAIN CHARLES PARKER, ONE OF SIR WALTER RALEIGH'S COMPANY AT GUIANA; TO CAPTAIN ALLEY A° 1617.[2]

Captain Alley,

Your going from us was very fortunate in that you prevented the undergoing unspeakable miseries: for we disembogued from Caliana towards Orinoco, Captain Witney's ship, Captain Woulistan, the flie boat and karvill. The Admiral, Vice Admiral, with the other great ships went from Trinidado to harbour till our return. We were a month going up Orinoco. At last we landed within a league of St. Thome, and about one of the clock at night we made an assault, where we lost Captain Ralegh and Captain Cosmor; but Captain Ralegh lost himself with his unadvised daringness, as you shall hear; for I will acquaint you how we were ordered. Captain Cosmor led the forlorn hope with some 50 men; after him I brought up the first division of shot; next brought up Captain Ralegh a division of pikes, who no sooner heard us charged but indiscreetly came from his command to us, where he was unfortunately welcomed with a bullet, which gave him no time to call for mercy to our heavenly Father for his sinful life he had led; we presently took the town without loss of any more men than two, whereof one was Mr. Harington, the Countess of Bedford's kinsman. The Spaniard was not strong, and mistrusting our potency fled, and left their Governor with some other 2 Captains, which bravely died. The Governor Don de Jego Palmetho do Acuna,[3] Captain Santo, Captain Alisnetto. When we were possessed of the town, Captain Kemish took divers gentlemen with him to find the mine, and trifled up and down some 20 days, keeping us in hope still of finding it; but at last we found his delays were illusions and himself a mere Machevill, for he was false to all men and most odious to himself; for most ungodly he butchered himself, loathing to live since he could do no more villainy; I will speak no more of this hateful fellow to God and man; but I inform you as near as I can what we that stay shall trust to. We have divided ourselves already. Witney and Woulaston are consorted to look for homeward bound men. The Admiral Vice-admiral Sir John Ferne will for Newfound Land to revictual, and after to the Western Islands to look for homeward bound men. For my part by the permission of God I will make a voyage or bury myself in the sea. So I pray you make known to my friends. About the latter end of August I hope we shall have feathered our nest, and being[4] in harbour. More I

[1] Each of these examinations bears the original signature of the examinate and of all the six commissioners.

[2] Harl. MSS. 39. fo. 351. A collector's copy.

[3] 'Aiona' in MS.

[4] 'beinge' in MS. Qu. 'be again'?

cannot write: only this I desire God that you may prosperously live that we may fortunately meet.

I rest yo^r affectionate friend
CHARLES PARKER.

The xxij^th of March,
1617.

TO THE RIGHT HONOURABLE THE LORDS OF HIS MAJESTY'S MOST HONOURABLE PRIVY COUNCIL. A TRUE AND BRIEF RELATION OF SIR WALTER RALEIGH HIS LATE VOYAGE TO GUIANA. BY SAMUEL JONES, PREACHER IN ONE OF HIS SHIPS CALLED THE FLYING CHUDLEIGH.[1]

Right Honourable—

A common report of his Ma^ty's large commission to Sir Walter Raleigh, the great expectation of success, the importunity of many worthy gentlemen, the good report I heard of Captain Chudleigh; joined with the consideration of my want of employment at that time in the Church (under which misery I still suffer); were the inducements that prevailed with me to undertake so dangerous a voyage.

To which we set sail from Plymouth the 12th of June Anno 1617. We put in again at Falmouth in Cornwall, after at Cork in Ireland, where we arrived the 25th of June, and remained till the 19th of August. These delays, however occasioned, forced divers young gentlemen and others to sell their private provisions both of apparel and diet, to the untimely death of many of them.

The first ship we gave chase unto at sea we found to be one of London: from whom nothing was taken but by mutual courtesy. The 30th August we gave chase to a fleet of four or five sail, but could not get up with them, nor knowledge directly what they were.

The next day other four ships we took, and found to be Frenchmen and Biscaners. Sir Walter Ralegh stayed them two days, the reason (as was reported) because they were bound for Sivill in Spain: nothing was taken from them by force, only a shallop and fishing seane, for which they were paid and so departed.

At Lancerok, one of the Canary islands, we put in, desiring only water and some other provisions, which if the inhabitants could part with, they should be paid for, when we were promised our desires, but so long delayed, that three of our men being basely murthered without doing any harm to the Islanders, we retired to our ships. At Gomera, after some intercourse of messages, they (seeing our force) gave us free leave to water, for at first they withstood us.

These passages I the rather relate, because they put not only myself, but many other gentlemen in a comfortable hope that Sir Walter Raleigh had a certainty of his project, whereof by his many former delays we

[1] Printed in Notes and Queries (2nd S. xi. Jan. 5 '61. p. 4) from a contemporary manuscript, communicated by Sir T. E. Winnington, Bart.

made great doubt: till we saw these places wherein we received such injuries spared; which might as we thought by our forces have been easily overcome and ruined. Yet for ought I could perceive, there would have been small scruple made of surprising any Spanish shipping, for at the Grand Canaries a Spanish carvell was taken, her men being all formerly fled; her lading was for the most part salt, some little wine, and other provisions, whereby it seemed she was bound a fishing. And about the same time near the Canaries a Spanish canter, a boat of about fifteen or sixteen tons, laden with fish of small worth, in her some 14 Spaniards, all which were set free except one, that desired to accompany us in our voyage, and did, being used as one of our own men. From these islands we made to the Isles of the Cape de Verd, in most of the seamen's judgments very impertinently: I am sure to the danger of all, and the loss of many men. For by steering such uncertain and unnecessary courses we were so becalmed, that above a hundred persons, gentlemen most of them, died between those islands and the continent of Guiana.

In which great mortality I, visiting as many of the sick men in the duty of my ministry as the occasions of the sea would give me leave, heard sad complaints from many sick and dying gentlemen of Sir Walter's hard usage of them, in denying even those that were large adventurers with him such things upon necessity, of which there was at that time sufficient store. Others of great worth, either by birth or place of employment, of being neglected if not contemned; of which number was Captain John Piggott, then our Lieutenant General, who complained to me thereof on his death bed; besides divers others that are returned; the truth of this point, Mathew Rogers, dwelling near Holborn bridge, then Surgeon's mate in the ship, can well witness.

During this time Sir Walter himself, taking a fall in his ship, being bruised, fell into a dangerous fever, wherein I visited him, (being called for by himself). He desired me to pray for him, spake religiously, and among other things told me that it grieved him more for the gentlemen than for himself, whose estates would be hazarded by his death, yet that he would leave such notes of direction behind him as should be sufficient for them, which notes neither I, nor for ought I know any man else in the fleet, yet saw.

At Calean, in November last, Sir Walter being somewhat recovered, opened his project for the Mine, which upon the plat he demonstrated to be within three or four miles of the town Sancti Thomæ, which he knew to be inhabited by the Spaniards, for he seemed oftentimes in my hearing to doubt whether it were reinforced or no.

Sir Warham St. Leger was now made Lieutenant General, and had he gone up to the town, as I have heard himself often say, he had not had particular directions; but in a seeming courtesy Sir Walter had left all things there to his valour and judgment. But God suddenly visiting him with a violent sickness, George Rawley, then being Sergeant Major, went up Commander-in-chief. Captain Kemis director for the mine. Sir Walter with four other ships remaining at Trinidado near the main mouth

of Oronoque: of which the ship wherein I went being one, I there staid, and went not up to the town.

We parted with those forces that went in discovery of the mine about the midst of December, and heard not of them again until the 13th of February following: during which time I very seldom heard Sir Walter speak of a mine: and when he did, it was with far less confidence than formerly, intermixing new projects, propounding often the taking of St. Joseph's in Trinidado, expressing the great conceit of wealth might be there among the Spaniards, and the undoubted great quantity of tobacco, but all this while nothing was done. Those that were absent so slightly respected, especially the landmen, that he would often say for the most of them it was no matter whether ever they returned or no, they were good for nothing but to eat victuals, and were sent to sea on purpose that their friends might be rid of them: and divers times propounded to go away and leave them, to which none of the Captains would ever agree.

Our companies that went up the river, as by the chief gentlemen at their return I was given to understand, arrived near the town of St. Thomæ the second day of January, where the Captains desired Captain Kemis first to shew them the mine; which Sir Walter had formerly said to be three or four miles nearer than the town, and that then if the Spaniard withstood them they would *vim vi repellere*.

This Kemis would by no means yield to, but alleged divers reasons to the contrary; as that if the town were reinforced, he should open then a mine for the King of Spain, and the like, which not on any terms he would be pleased to do. Divers reasons like this I not only heard by the gentlemen that returned, but saw myself under Kemis his hand in a letter which he wrote from Oronoque to Sir Walter Raleigh at Trinidado, which letter I transcribed, but have not the copy of: yet I think there be of them in London.

During the time of this consultation, our men, ready to repose themselves for that night, were assaulted by the Spaniards from the skirt of a wood, in pursuit of whom they were brought to the town almost before themselves knew of it. In which conflict some four or thereabouts of either side were slain, the rest of the Spaniards quit the town and fled.

The town being next day their own, and the place as it were in their possession, every man's expectation looked hourly for the discovery of the mine, whilst Captain Kemis minded rather the tobacco, apparel, household stuff, and other pillage; often saying these would help if all failed. Yet one night, as hath been divers times related to me by Captain Thornhurst, himself, accompanied only with his man, went out privately and brought in some mineral ore which he cheerfully shewed Captain Thornhurst; but being tried by a refiner, it proved worth nothing, and was no more spoken of. Hence it was considered that Kemis himself might be deluded, even by Sir Walter Raleigh, in the ore and place. For now the place began to be called in question; new ways were to be searched: boats were manned with gentlemen, soldiers, and sailors, which should return that night, yet stayed out two days; and then returned, divers of them

hurt, and two killed outright by an ambuscade of Spaniards and Spanish Indians.

Within two days after, the boats again were manned, and they carried with them provision for four days, the time limited for their return: but they stayed from the rest 20 or 21 days: almost to the famishing of them all.

And whereas the mine was described to be three miles short of the town, they went not only three miles but three score leagues beyond it,[1] till at last they were forced to return; and had they found a mine, they must have come back for spades, pickaxes, and refiners, for none of these carried they with them.

The 13th of February we at Trinidado received news from them in the river, of the taking of the town and the missing of the mine.

Sir Walter protested to the Captains (as most of them told me) his own innocency, which to approve he would call Kemis to a public account in their presence before he spake with him privately; which he never performed.

At their coming to us, which was the second of March, Sir Walter made a motion of going back again, and he would bring them to the mine: the performance of which at that time was altogether improbable, if not impossible. Our men weary, our boats split, our ships foul, and our victuals well-nigh spent. Then again for the taking of St. Joseph's, which the next morning was left of, and we disembogued.

From thence we fell down to the Caribee Islands till we came to Mœnis: there we put into the bay the 12th of March. In which time Sir Walter promised to propound unto the Captains very often, as I heard, some new project; speaking of a French Commission, which I never saw, nor any man that I know of.

He now likewise freely gave leave to any of the Captains to leave him if they pleased, or thought they could better themselves in their own intendments; whereupon Captain Whitney and Captain Wolleston, with their ships, left him the sixth of March.

Sir Warham St. Leger (as I have often heard him very confidently report) privately one day desired to know of Sir Walter, whether he intended to come for England or no? To which he answered (with reverence to God and your Lordships be it spoken) that by God he would never come there, for if they got him there, they would hang him, or to that purpose.

Being desired then by Sir Warham to tell him what course he would take, he said he would go to Newfoundland, victual and trim his ships, and then lie off about the Isles of the Azores, to wait for some of the

[1] This is much further than would appear from the English accounts; but agrees with the Spanish, as given by Sir Edward Schomburgk. "The English commander, incensed at the failure, now armed three boats, and having embarked a larger force, they explored the river as high up as the Guarico, which falls into the Orinoco near the village of Cabruta, about one hundred and ten leagues from Santo Thomè. They were twenty days absent upon the expedition," etc. *Discovery of Guiana*, p. 215.

homeward-bound Spaniards; that he might get something to bid himself welcome into France or elsewhere. At Mœnis, the 21st of March, the Captains hearing of Kemis his untimely death, presumed that they had been much abused in this project by Kemis or Sir Walter, or both; and considering with themselves their men were ready to mutiny, and would not follow them any longer if they followed Sir Walter, but would carry the ships where they pleased; Sir Walter's uncertainty and many delays, —resolved all to leave him, and consort no longer with him, which they within few days actually did.

And though at first they were not resolved to come directly into England, yet within few days upon better consideration they thought it better to refer themselves to his Ma^ty^s princely clemency, and to leave off that voyage with so great loss, than by longer staying out to incur his high displeasure; and so made for England. As for Sir Walter's return, whether it were willing or constrained, all that I know of it is by the report of some gentlemen then in his ship, who relate it thus. Near the bank of Newfoundland, there began a mutiny among the seamen; some of them, weary of the voyage, desiring to be at home for better employment; others, which had formerly been pirates, would stay at sea till they had gotten something. Sir Walter, to appease this tumult, came up from his cabin, read his Ma^ty^s commission to them, and lastly put it to their own choice by most voices what they should do; giving, as I hear, his own voice at that time very confidently for England.

That ever he slighted the King's Majesty or his authority by any words of his, or suffered it to be done, or that it ever was done by any one in the fleet, I never yet heard. The gentlemen that were most inward with him, as I hear and think, were Captain Charles Parker, Sir John Holmden, and Captain George Raleigh, the chief seamen, and of them but few.

Thus, Right Hon^ble^ Lords, in the simplicity of truth, free from all sinister affection, I have endeavoured to perform what by your Lordships I was appointed, though with much weakness, which I refer to your Lordships' view and favourable censure. My pen hath not been used to so high employment, but my prayers shall never cease to mount the throne of Grace, that God will be pleased to make you all glorious in Heaven whom he hath made so gracious and honourable on earth.

Your honoured Lordships' ever to be commanded,

SAMUEL JONES.

EXTRACTS FROM SIR T. WILSON'S MINUTES.

Jardine, p. 393. Corrected from MS.[1]

13th September at night.

This evening finding him at my coming in, reading of the Psalms, I told him there was the best comfort; there was a man and a King, and the best man and the best King that ever was, who had yet as great affliction as ever any had, and yet with his constancy and faithfulness he overcame all;

[1] S. P. vol. xcix. no. 10. i. Original rough notes.

and so might he. Hereupon he began and told me from the beginning to the end all his infortunity, how first at his Majesty's coming in, Northampton, Suffolk, Salisbury, and the rest plotted to get him and Cobham out of favour and get the good, with all the circumstances therein: and said that that was as unjust a condemnation, without proof and testimony, as ever was known. So went he along his 13 years' imprisonment, his means to procure the liberty late for his voyage, his disasters there, and all the tedious circumstances, then the betraying of him by Sir Lewes Stukley. . . .

M^m^ that when I told him that if he would but discover what he knew the King would forgive him and do him all favour, 'Aye,' quoth he, 'how should I be assured of that? He will say when all is told, the knave was afraid of his life, else he would not have told it, and therefore no, God-a mercy': so I perceive he has something to discover. I told him if he would write to the King I would ride and carry it, and assumed upon my life I would return him a gracious answer. Whereto he made a pause as if he were half persuaded to do it. Then supper coming up, after he had supped he gat courage again to say he knew nothing worth the revealing. . . .

13th September. This day upon his complaint of his misery I giving him counsel and comfort to bear his affliction with patience, upon the assurance of God's mercy, and the example of such as God had suffered to be as grievously afflicted as flesh and blood could bear, and yet he had restored them to as great felicity as ever, ... he took thereupon to commend the magnanimity of the Romans who would rather take their deaths by their own hands than endure any that were base and reproachful. To which I answered then that they were such as knew not God nor the danger of their souls to be damned to perpetual torment of hell for destroying their bodies which God had made a temple for the Holy Ghost to dwell in. To which he said that it was a disputable question: for divers do hold opinion that a man may do it and yet not desperately despair of God's mercy, but die in God's favour. . . . Whereto this discourse of his tended it is easily seen, but I think he hath no such Roman courage. Mr. Lieutenant tells me he hath had like discourse with him heretofore and charged him with such intent upon occasion of his having so many apothecary drugs and such like 'which were well they were not suffered,' saith he, to be here.' 'Why,' saith he, 'if you take away these and all such means from me, yet if I had such a mind I could run my head against a post and kill myself.' . . .

21 September. This day I sitting by him while the barber was trimming and keeming my head, he told me he was wont to keem his head every day a whole hour before he came into the Tower. Asking why he did not do so still, he said he would know first who should have it: he would not bestow so much cost of it for the hangman. . . .[1]

This day I got from him one thing which it seems he hath not written to your M. which argues that the French agent did not plot with him of himself, nor without having first instructions out of France: for Rawley saith that when he told the agent that he had no acquaintance in France he bade

[1] Ibid. no. 48.

him take no care, he should find acquaintance enough, and that let him go as fast as he could his packet should be before him, and La Chesne should go over land and meet him. I urging him further that himself had said that he had a commission out of France, and that it was told at M. de Marrettz table here before his going hence, he said 'tis true that he said so: for, saith he, when we found so ill success at S. Thome we fell to counsel for taking the Plate fleet or the Mexico fleet; at which said some what shall we be the better? for when we come home the King will have what we have gotten and we shall be hanged. Then, quoth Rawley, you shall not need to fear that, for I have a French commission by which it is lawful to take any beyond the Canaries. And I have another, quoth Sir John Ferne, and by that we may go lie under Brest or Bellyle, and with one part thereof satisfy France, and with another procure our peace with England, but he saith he had no such commission, but spake it only to keep the fleet together, which else he found were apt to part and fall on pirating. This blanching excuse he brought in afterwards, fearing his former confession might be a testimony against him. . . .[1]

This evening after I had told him I had written to Mr. Sec. to entreat an answer of his Majesty's acceptation, I fell by occasion into a question with him of his end of going into France, albeit he had told me before that it was only to save himself till the storm was blown over, hoping by the Queen or some of his friends to procure his peace. Now he, thinking that I had a bad memory, as perhaps he finds, he told me he would make me his ghostly father, and that his hopes in France were that at least with his ship and 2 pinnaces he might recover again Guiana, and so find the mine, which they failed on by reason of his sickness in his ship, being 80 leagues off, the mine being so much up the river Orenoque: or else his hope was that he being in France, the Spanish ambassador there, fearing what hurt he might do to Spain being in France, would procure the King of Spain to write to his M. to call him home and give him his pardon. This is his last dream.[2]

10.

Although the authority due to a judicial sentence from a judge who has no interest in the cause cannot be claimed for this declaration, framed as it was by those who were responsible for the action which it was written to justify,—although, therefore, it is fairly open to such suspicions as must always attach to statements made in self-defence,—I cannot understand why it should be considered undeserving of such attention as statements made in self-defence are always held to be entitled to. Let it by all means be analyzed, criticized, confronted, disputed, and (where it can be convicted of error) set aside. But why should it not be heard? Now although, when I remember the importance which is claimed for it by Hume, I cannot suppose that its existence is not generally known, yet

[1] Ibid. no. 58.

[2] Ibid. no. 59. i.

when I read the statements of the case as commonly set forth in our popular biographies and histories of state trials, I can hardly think that it has been read by the writers. For I find almost invariably that all the material points are omitted; and when I enquire in what particulars it is inaccurate and how the inaccuracy is proved, I find scarcely anything to enlighten me. I cannot indeed profess to be acquainted with all that has been written on the subject, and the question may have been satisfactorily answered in some book which I have not seen; but I cannot at present recall more than two particulars in which the truth of the narrative has been definitely challenged: one of which is a very small and immaterial error,—if it be an error at all; and the other is merely an opinion stated to be erroneous, upon a question on which opinions differ.

Mr. Edwards has taken exception to the statement that Ralegh dealt with the owner of the French barque for a passage from Plymouth "*before* he was under guard;"[1] and it is true that according to Captain King's narrative (as quoted by Oldys) it must have been *after* he had been arrested. But Captain King's narrative was not written till after the Declaration was published, and we do not know what other evidence the Commissioners had before them.[2] That they were in error at all may still be doubted. That the error, if any, was immaterial, may be seen by this—the correction of it does not alter the case; a reasonable apprehension of arrest being as good a justification of the attempt to escape (if any justification were needed) as the arrest itself; and a cause for reasonable apprehension having been already furnished by the Proclamation. All that the attempt to escape could prove in either case was that Ralegh did not mean to trust himself in the hands of government if he could help it; and an attempt to escape "before he was under guard" did not prove this more conclusively than an attempt after.[3]

[1] "Before *Stucley's arrival at Plymouth*," are Mr. Edwards's words. But have only to deal with the real ones.

[2] They must have had *some* kind of evidence that he had meditated escape before the arrest, because in the proceeding before the Commissioners, among the "faults committed since his voyage," the first was "his *purpose* of flight *before* commandment laid upon him," and the second "his *endeavour* to fly *after* the arrest upon him." It is true that he denied the first charge, asserting that "he sought not to escape till his arrest by Sir Lewis Stucley." But it is still possible that the Commissioners knew better.

[3] It is to be observed that Ralegh himself, on the scaffold, alluded to the fact, almost in the same terms which were afterwards used in the Declaration, without denying it. He alluded to it as one of the facts which gave the King "just and weighty reason to believe" that he had had some plot with France. He denied the plot, but not the facts which justified the suspicion, of which the first was "that when I came back from Guiana, *on my arrival at Plymouth, I endeavoured to have passed over in a small bark* to Rochel." These are his own words, as reported: and the fact is by implication admitted. In the Declaration the same fact is alleged to prove, not any plot with France, but a desire to escape from

Mr. Gardiner, on the other hand, who has been careful to compare the statements in the Declaration with the testimony of independent witnesses, and concludes that "it was founded upon the evidence taken" and contains nothing which the authors did not believe to be true, finds nevertheless an error at the bottom of it which renders the superstructure "altogether false as a whole." This error was the assumption that Ralegh did not believe in the existence of the mine. "Starting from the theory that the mine was a mere figment of Raleigh's imagination, they could not fail" he says "to misinterpret the facts before them."[1] I do not however understand them to have adopted the theory before they looked at the facts; but to have arrived at it by way of inference *from* the facts. If the inference was wrong, they must no doubt have misinterpreted *some* of them, but not necessarily all, or those which were most material. I have already expressed my own opinion that the question whether Ralegh did or did not believe in the existence of the mine is comparatively immaterial,—the material question being whether he believed that the thing he was going to do was within the limits of his commission: and I cannot understand how the assumption that the mine was a pretence should have made it impossible to relate truly what he did in the pretended pursuit of it. His motives may have been misinterpreted; but if the evidence was fairly taken and duly weighed, his actions were represented correctly; and it was with his actions, not his motives, that the law was concerned. But to believe that he *knew*—that is, that he thought he knew (for I do not understand Mr. Gardiner to maintain that there *was* such a thing)—of a particular mine to be found in a particular place, is to me difficult. In the first place what reason had he to think so? If I understand Mr. Gardiner right, all he knew about it was this:—In 1595 Captain Keymis was going down the valley of the Orinoco with an Indian

England; and the words are "for *soon after his coming to Plymouth*, before he was under guard, *he dealt with the owner of a French bark*," &c. The parenthetical clause was inserted in order to explain how it happened that, having missed that opportunity, he found no other: the reason being that afterwards he was better guarded. If Ralegh had thought it as important as Mr. Edwards does to state that his attempt to escape was consequent not on his arrival at Plymouth but on his arrest by Stucley, he would surely have expressed it so.

With regard to the expression "before he was under guard"—for which Mr. Edwards substitutes "before Stucley's arrival at Plymouth" (as if it were an equivalent)—it is to be observed that he was so little under guard at that time that according to Captain King, as quoted by Oldys, "he was sometimes 2 or 3 days without seeing Sir L. Stucley:" and according to Ralegh himself, in one of the reports of his last speech, Sir Lewis "left him 9 or 10 days to go where he listed, while he rode about the country." (Oldys p. 519.) It is clear therefore that in any sense of the words suitable to the context, though it was not before Stucley's arrival at Plymouth, it *was* before he was "under guard."

[1] P. Charles and the Sp. Mar. i. p. 152.

guide. At a particular place he observed his guide stop and make signs as if he wanted to show him something. Supposing it was only a waterfall, he would not turn aside, but went on and thought no more about it. The next year he was on the Orinoco in the same region, with an Indian pilot. The pilot directed his attention to a spot, which he recognised as the same towards which the other guide had pointed the year before; and he was now told that there was a very rich gold-mine there. This was in 1596; and Keymis's report of this, so far as I can learn, was all that Ralegh ever knew of the matter. Now such evidence might be motive enough to an adventurous man for *seeking* a mine there: but was it enough to make a man of Ralegh's experience so sure of finding it that he would stake reputation and fortune upon the issue? It is true that he used language implying as much; but in order to believe it one must take a new view of his understanding.

Let us suppose however that it was so. Let us suppose that upon Keymis's report of what he heard from the Indians in 1596 Ralegh really felt sure of finding, with Keymis's help, in 1617, a very rich gold-mine in a certain place, if he could only get far enough up the river: and let us see whether he took the measures which such a belief would naturally prompt. One such, according to his own account, he did take. He obtained from Keymis a description of the place; a description, it seems, so exact that "a blind man might find it by the marks set down."[1] But what did he do with it? Keymis might be killed or die on the way. He himself was not to be of the party. Is it conceivable that in an adventure upon the success of which everything dear to him depended, he would have sent a force up the Orinoco to find that particular spot, without a copy of this description of it,—for the use, in case of Keymis's death, of whoever might succeed him in the command? Yet I cannot hear that it was ever seen by anybody else, or that he himself had kept any note of it. He repeated over and over again his *assertion* that "such a mine there was, within three miles of S. Thome." The production of Keymis's description would have been more to the purpose than many assertions. Yet no such thing is heard of.

But this is not all. Keymis reached the place without accident and with an escort strong enough to protect him against any force that might interfere. But he could not find any mine, and was obliged to return empty. The rest we learn from Ralegh himself. According to him, Keymis after his return continued to speak of the

[1] Ralegh's Apology.

mine as if there were no doubt it was there, but pleaded in excuse for coming away without opening it that it would have cost too many lives (the woods being occupied by the dislodged Spaniards), —that they could not have held it for want of victuals,—that to discover it, without being able to work it and hold it themselves, would have been to discover it to the Spaniards,—and therefore that he thought it better to pretend to his own companies that he could not find it. "All which fancies," proceeds Ralegh, "I rejected, and *before divers of the gentlemen* discovered his ignorance:" told him that he could have had no difficulty in finding the mine; that a hundred weight of the ore to shew the King would have been well worth a hundred lives of such as remained of the land forces after his son's death; and finally that he must leave him to make good his own excuse, for *he* could not justify it. This, it seems, was before company: and "with this Keymis seemed greatly discontented, and so continued divers days:" which was natural enough. He employed those days in writing a letter to the Earl of Arundel (who had been one of the patrons of the expedition), in which he excused himself by the same and other arguments for coming away as he did: brought it to Raleigh in his cabin; and "prayed him to allow of his apology." Ralegh refused. "He had undone him by his obstinacy: he could not favour in any sort his former folly."

"He then asked me whether that were my final resolution? I told him that it was. He then replied in these words 'I know then, Sir, what course to take.'"

The course which he took was to retire to his own cabin and put himself to death.

Now if we are to suppose that Keymis was conscious of nothing worse than failure, without any fault of his own, in a legitimate enterprise;—if he believed, what it seems he was prepared to maintain, that in giving up the search for the mine (which he still fully believed to be there) he had acted prudently;—I find it hard to understand how the discovery that Ralegh was of a different opinion should have driven him to that extremity. "The truth" says Professor Napier "would seem to be, that believing firmly in the existence of a mine in the neighbourhood of St. Thomas, and being awakened by the reproaches of his old commander to a full sense of the ruinous consequences of its non-discovery, he was prompted by a strong feeling of shame and grief, arising from the thought that he had too hastily abandoned the search, to destroy himself."[1] I do not say that this is incredible; because the conditions of mental

[1] Ed. Rev. Ap. 1840, p. 86.

sanity are little understood, and it may be that the mortification of such a reception added to the mortification of the failure itself was enough to make a man mad. But I should find the case more intelligible if I might suppose that there had been a private understanding between Ralegh and Keymis about the mine—an understanding unwritten and possibly unspoken, but known to themselves—and that Keymis thought he was going to be thrown over. Such an understanding was by no means impossible. So well as they knew each other, and so quick as Ralegh's apprehension was, it might easily have been managed without any words. They both believed in the mineral riches of the region. It was but to "know of" a particular mine. Keymis, for Ralegh's sake, might easily pretend to know more than he really knew. Ralegh, for his own sake, might easily pretend to believe more than he really believed. In that case the disappointment would be, not that they found no *mine*, but that they found no *riches*, mineral or other. And if Keymis found or suspected that Ralegh meant to throw the whole blame upon him, pretending that he had been himself deceived, it would not be so strange if his vexation became tragical. It is not necessary to suppose that Ralegh intended to carry out the threat. He was not prepared for any tragical issue at the time; and he had to play before others the part of an offended and disappointed commander. Perhaps he played it a little too well. But his behaviour to Keymis, as related by himself, requires explanation, and it seems that it presented some difficulty; for the evidence varies considerably,[1] and the Declaration avoids all mention of the catastrophe.

But further. If everything depended upon the discovery of the mine, and the discovery of the mine depended upon the accuracy of those two observations of Keymis and the truth of the Indian's report, is it not strange that the probabilities of success were not more canvassed during the voyage? In Ralegh's journal I do not think the mine is once alluded to. And in the letter from one of the Captains, which was written while preparations were making for the expedition up the river and in a spirit of sanguine expectation of unbounded success—the letter which was published in 1618 under the title of "News of Sir Walter Raleigh"—there is not a word from which one would infer that the object of the expedition was the discovery of a mine. The writer evidently understood it to be the taking possession of an empire. The general had received, he says, from Sir Robert Dudley—

"a strong assurance that yet there remained, out of the hands of all the Kings and Princes in Christendom, in the south parts of America,

[1] Compare North (p. 418) and Jones (p. 424).

the very magazine of all rich metals, and such an empire as whosoever shall have the fortune to conquer it shall so darken all the actions either of Cortez or Pescaro, that nothing but poverty will appear in their deeds, neither Mexico nor Peru be worthy to be compared with it, and what Prince soever shall possess it shall be lord of more gold, of a more beautiful empire, and of more cities and people, than either the King of Spain or the great Turk. At this questionless our hopes promise that his noble ends do bend; for being full as great, and having been much greater than any man whatsoever of our nation that hath followed the like course, to what should his great heart look? or what should he dedicate to so gracious and merciful a King as he enjoyeth, but the very top and garland of all heroical actions?"

These, it seems, were the hopes with which he inspired his followers; and I cannot help thinking that he had much more faith in them himself than in finding a mine of slate-gold ore, a foot and a half below the surface of the ground, within three miles of S. Thome.

His proposal to the Lords of the Council in 1611 (by which he engaged—in case Keymis, after being guarded to the place, should fail to bring to England half a ton of slate gold ore,—to bear the whole charge of the expedition) is indeed regarded by Professor Napier (who first printed it) as "proving that he was ready to stake his fortune and liberty upon Keymis's knowledge of the existence of a gold mine in the interior" of Guiana, and thereby settling the question as to the reality of his own belief in such a mine. I cannot think that it proves so much as that. It proves only that he was ready to stake a sum of money equal to the cost of the voyage—that is to the expenses *minus* the proceeds—upon the chance of Keymis being able to bring back half a ton of slate gold ore. Nor did he stake his *liberty* even upon that. He *risked* no liberty. If the adventure turned out well he was to have his liberty restored; if not, he was to continue as he was. And as to his fortune, he did not propose to risk it upon that hope more than he had been used to do without any such hope. It would not have been the first voyage that had been made at his charges; and even if no mine had been discovered, it might nevertheless have been a good one.

As a possible solution of some of the difficulties which meet us in endeavouring to find a consistent theory of his actions, I have sometimes suspected him of fancying that there was a private understanding between himself and the King, similar to that which I think there must really have been between him and Keymis; an understanding that his assurances with regard to the distance of the mine from all Spanish settlements were merely devices to enable the King

to disclaim all knowledge of the fact;[1] that he was to bring back proofs of the riches of the region, getting them as he best could, and if it appeared to be worth holding the King was to claim it as his own by right of the cession to Elizabeth. Such an idea would account for several things not easily accounted for otherwise; among the rest for his making it a matter of complaint that the plan of his voyage had been communicated to the Spanish government; a complaint which on any other supposition seems absurd. For if the King meant in good faith to allow no aggression upon Spanish territory, why should he not inform the Spanish government to what territory the armed force which he was sending out was bound? And if the Spanish government made use of the information only to strengthen their own defences along the line of march—which was all that Ralegh himself charged them with doing—what had *he* to complain of? If, however, we may suppose that he took the King for his accomplice in a treacherous attempt to take the Spaniards by surprise, (and if his most admiring biographers are to be trusted, it would not have been the first time that he proposed this kind of secret arrangement with his sovereign,)[2] the complaint (as from

[1] It is sometimes said that the King *must* have known that Ralegh was going to invade a Spanish settlement, because the plan of the expedition, with the place where the mine was said to be, had been fully explained to him. But the question is, where the *town* was supposed to be. Mr. Gardiner (vol. i. p. 53) has a long note upon this question, and comes to the conclusion that Ralegh "had no reason to believe that there was any Spanish settlement, short of a spot at the mouth of the Coroni, several miles further on." It seems that there was, or had been, a town there, called S. Thome, but that it had been removed to a place many leagues lower down the river. "But," says Mr. Gardiner, "the whole of the evidence upon Ralegh's voyage is unintelligible, unless it is admitted that he knew nothing of the change of site when he sailed from England in 1617." The reasoning is not conclusive to me (see my note, p. 349) as far as *Ralegh's* knowledge is concerned. It seems to me probable that before he left England he did know that there was a Spanish town near the place where he believed the mine to be. But I do not suppose that he told the King so. In laying the plan of his proposed voyage before the King, what should prevent him from leaving S. Thome where it formerly was, at the mouth of the Coroni, and placing the mine where Keymis went for it, many leagues below? Though Ralegh was not likely to be ignorant of a matter so deeply concerning him, the King was not likely to know anything about it. Why should he?

[2] The proposal made by Sir Humphrey Gilbert to Queen Elizabeth in 1577,—which Mr. St. John believes to have been drawn up by Ralegh, then a youth of twenty-five,—bears so strong a resemblance to this that his account of it is worth quoting. "The 'Discourse,' in the most debonnair manner, takes it for granted that our government would entertain no scruple to take a leaf out of the book of the Jesuit, provided it could be enabled to shield itself from material ill consequences. . . . Without much preface, the writer enters upon his project, which is for her Majesty to fit out a fleet, ostensibly for discovery alone. It is to consist of a few ships, and those manned, armed, and victualled, conformably to its object; but at a given latitude on the ocean, this harmless squadron is to fall in with a more formidable armament, equipped and sent out secretly, with a force of five or six thousand men on board. . . . The Spaniards, French, and Portuguese employed a large portion of their shipping in the fisheries of Newfoundland.

him) would be intelligible. That it should have been adopted and echoed by so many English writers of reputation, who do not suspect any such conspiracy, and that Hallam himself should be one of them,[1] remains a mystery upon any supposition; and one of which I cannot suggest any plausible explanation.

The popular judgment upon Ralegh's execution is more intelligible, though hardly more just. His offence was against Spain. The same feeling which made a London mob demand, in the name of justice, that a Spaniard who had accidentally ridden over a child should be given up to *them*, and disposed a London magistracy to let a riotous attempt to break into the house and drag him out pass without inquiry,[2]—this same feeling made the punishment of an Englishman, for merely pillaging and burning a Spanish town in South America, seem like an outrageous injustice. The unfortunate circumstance which forbade a formal trial and made it necessary (in the opinion of the highest legal authorities) to proceed under the existing sentence (which was for other matters) *or not at all*, was not easy for ordinary people to understand, and gave plausibility to the assertion that the punishment was inflicted upon a false pretence, and that the real motive was to give satisfaction to the Spaniards. Even those graver writers who can see that an offence had been committed which had no right to pass unpunished, have been unable to get over this circumstance. Lord Macaulay speaks

On reaching the banks, it was customary for the crews to take to their boats, or go on shore to cure their fish, leaving a few hands on board rather as sentinels than as defenders. Knowing this, Ralegh's plan was to make a sudden dash at these unprotected vessels, take possession of them with their ladings, return to Europe, and dispose of the whole in the ports of Holland and Zealand. . . . With the funds thus obtained, Ralegh suggested that Gilbert and he might be empowered to fit out a larger fleet, with which he persuaded himself it would be practicable to conquer the Spanish possessions in America. . . . 'If your Highness will permit me, with my associates,' he says, 'either openly or covertly to perform the said enterprise, then with the gains thereof there may easily be such a competent company transported to the West Indies as may be able not only to dispossess the Spaniards thereof, but also to possess your Majesty and the realm therewith.' . . . . To throw dust into the eyes of Spain, Elizabeth was to affect much indignation at these adventurers, whom she was to disclaim and denounce as pirates, or describe as servants of the Prince of Orange. The admirals who countenanced or succoured them were to be imprisoned, and generally everything was to be done which might screen the government from the charge of collusion with the infringers of the treaty." St. John's Life of Sir Walter Raleigh, vol. i. p. 22. If he had *assumed* that Elizabeth would approve of such a proceeding, and obtained from her a commission limited to purposes of peaceful discovery—pretending, in order to keep her clear of all complicity, that his object was discovery alone—the two enterprises would have been in all the main features identical.

[1] "There is even reason to suspect that he betrayed the secret of Raleigh's voyage to Gondomar, before he sailed." Constitutional History, vol. i. p. 484, *note*.

[2] "Three weeks afterwards, James, *finding that the magistrates were inclined to sympathize with the offenders*, issued a special commission," etc. Gardiner, vol. i. p. 136. For a short account of the case, see above, p. 322.

of the execution as "an act which, *if done in a proper manner, might have been defensible;* but which, under all the circumstances, must be considered a dastardly murder."[1] "To such a pass had James brought himself," says Mr. Gardiner.... "He had suffered himself to float down the stream .... till it was impossible to *punish an offender* without perpetrating what can hardly be dignified with the title of a judicial murder."[2] "Ralegh *might be amenable to punishment,*" says Hallam, "for the deception by which he had obtained a commission that ought never to have issued; but the nation could not help seeing in his death the sacrifice of the bravest and most renowned of Englishmen to the vengeance of Spain."[3] "Had Ralegh been pardoned when he was liberated," says Professor Napier, "*he might have been brought to trial* in some competent form, and the law would have vindicated itself by maintaining *both the reality and the appearance of justice.* His execution upon the antiquated sentence is unquestionably one of the most revolting acts that stains the annals of British criminal procedure. It is so far consolatory to know that the indignation which it roused reduced even James, the great advocate of irresponsible kingship, to the necessity of appealing to his people in vindication of his conduct, and that his vindicatory 'Declaration,' though aided by the pen of Lord Bacon, produced no favourable effects. A sentence of condemnation, founded upon the inborn and immutable feelings of the human heart, had gone forth against him; and it was rendered irreversible by the general belief that Ralegh's life was sacrificed to gratify the resentment and to appease the fears of the ancient enemy of his country."

As a description of what was generally felt about the case, I have no exception to take to these statements; but I cannot think they represent at all truly what the case *was;* and if the writers shared the feeling which they describe (as it seems they did), they must in my opinion have failed to distinguish the appearance from the reality. In what sense can the execution be called or likened to a murder? It was not against law. It was done publicly, with all judicial forms and sanctions, after careful investigation, upon grounds which were openly declared and avowed, and was thought by those who did it to be an act of justice. There is not the least reason to suppose that the administration of justice in the matter was in any way tampered with or deceived or overswayed. It may be said that the verdict upon the old case was unjust, that the opinion of the legal authorities upon the new case was erroneous, that the advice of the

[1] Essay on Lord Bacon. [2] P. Charles and the Sp. Mar. i. 182.
[3] Const. Hist. i. p. 484.

council was bad when they agreed that the King might "with justice and honour give warrant for execution upon the former attainder." It may be said that the execution was unjustifiable by law, by reason, or by humanity. But it cannot be said that it had any resemblance to anything that is meant by the word murder. Neither can it with any propriety be called "an execution upon the antiquated sentence," if by that be meant an execution on account of the old offence. It was perfectly well understood that the old offence had nothing to do with it. The old sentence happened to stand in the way of a *trial* for the new offence: the lawyers did not know how a man under attainder for treason could be legally punished at all except by using the power which the attainder had put into the King's hands. It may be said that this was a foolish scruple, or that it was bad law. But it was the real reason why Ralegh was not regularly tried for acts of hostility committed against persons who were in amity with England. And it was for such acts, not for treason, that he was executed. Nor can it be objected that the execution took him by surprise, and thereby offended against that principle of justice which forbids to punish without warning. He had been fully warned before he started that he held his life on sufferance, and that if he abused his commission the sufferance would be withdrawn. Nor was it withdrawn without full inquiry. Quite as much pains were taken to ascertain that he was guilty as would have been taken by way of preparation for an indictment in the ordinary form. Probably more. For he had the advantage of hearing the whole charge, with the evidence, set forth in order; and of giving his answers point by point. Nor again was there any room for doubt about the material facts. The question is only what punishment was due to the acts of which he was accused: there is no doubt that they had been committed. In the face of all this, to call it an "execution upon the antiquated sentence," seems to be a gross misrepresentation of the spirit of the whole transaction. Can it with more justice be called a sacrifice to the vengeance of Spain? The offence was an offence against the law of nations, and Spain was the nation injured. "Offences against the law of nations," says Blackstone, without any reference to the case of Ralegh, "can rarely be the object of the criminal law of any particular state. For offences against this law are principally incident to whole states or nations: in which case recourse can only be had to war; which is an appeal to the God of hosts to punish such infractions of public faith as are committed by one independent people against another; neither state having any superior jurisdiction to resort to upon earth for justice. But where the individuals of any state violate this general law, it is

then the interest as well as the duty of the government under which they live to animadvert upon them with a becoming severity, that the peace of the world may be maintained. For in vain would nations in their collective capacity observe these universal rules, if private subjects were at liberty to break them at their own discretion, and involve the two states in a war. *It is therefore incumbent upon the nation injured, first to demand satisfaction and justice to be done on the offender by the state to which he belongs; and if that be refused or neglected, the sovereign then avows himself an accomplice or abettor of his subjects' crime*, and draws upon his community the calamity of foreign war."[1] If this be admitted for sound doctrine, we have only to substitute the particular for the general case, and we shall find that it was incumbent on Spain to demand satisfaction and justice to be done on Ralegh by England; that a refusal or neglect to comply with the demand would have been an avowal by the King of England that he was an accomplice and abettor; and that if a war followed he would be responsible for it. And this, as far as I can see, was precisely the view James took of the case, and upon which he consistently, openly, and honestly acted throughout; knowing well enough that he was making a sacrifice, but believing that it was a sacrifice which justice demanded of him. For this is surely the true and natural interpretation of that letter which has so often been quoted as containing an admission of the contrary. "The justness of that belief," proceeds Professor Napier—meaning the belief that Ralegh's life was sacrificed to gratify the resentment and appease the fears of Spain—"is placed beyond all question by a despatch written upon the occasion to the British ambassador in Spain. . . . 'Let them know,' says this despatch, 'how able a man Sir Walter Ralegh was to have done his Majesty service, if he should have been pleased to employ him; *yet to give them content he hath not spared him, when by preserving him he might have given great satisfaction to his subjects*, and had at his command as useful a man as served any prince in Christendom.'"[2] The same passage had been previously quoted by Jardine with the following comment:—

"The abominable injustice of executing a man for political purposes was not without many parallels in the reigns of his predecessors; but the singular and peculiar baseness of prostrating the law of England to the will of a foreign power, of delivering the sword of English justice into the hand of the King of Spain, to enable him to wreak his vengeance on an English subject, and destroy one of the most distinguished men of the

[1] Commentaries, Book iv. c. 5.
[2] Edin. Rev. Ap. 1840, p. 94.

age, was reserved for a monarch so mean and pusillanimous as James the First."[1]

I give these comments entire, that they may be compared with the general doctrine of public wrongs above quoted. It will be seen that Mr. Jardine's censure applies to the course of proceeding prescribed by Blackstone in the general case, quite as exactly as to the proceeding pursued by James in this particular case. But an analogous case on a smaller scale, having the sanction of a man who cannot be suspected of a disposition to prostrate England to Spain, will perhaps be more easily understood, and will help us to a juster judgment.

When Ralegh touched at Gomera on his way to Guiana, and his ships, being mistaken for Turkish pirates, were shot at, he took measures to satisfy the Governor that they were Christians and wanted nothing but water. The Governor replied that in that case "he would willingly afford as much as they were pleased to take, if he might be assured they would not attempt the town and spoil it, with the churches and other religious houses, nor destroy the gardens nor fruits."

"I returned him my answer that I would give him my faith and the word of the King of Great Britain, my sovereign Lord, that the people of the town and island should not lose so much as one grape; and if any of my company did take from them, were it but an orange or grape, without paying for it, I would make him an example to the rest and hang him up in the market-place."[2]

So far Ralegh's position towards the Spanish Governor was exactly analogous to that of James towards the Spanish Government. James had in like manner given his faith to the Spanish Government that Ralegh should not take from them any of their property; and that if he did, he should be either beheaded in England or given up with all his spoils to Spain. And if the parallel ends there, it is only because none of Ralegh's company dared to incur the penalty. But suppose one of them had taken something without paying for it, and Ralegh had been as good as his word—had made him an example and hung him up in the market-place: in what respect would his position with regard to that man have been different from the King's position with regard to himself? He would have executed an Englishman for an offence committed against Spaniards. To give content to a Spanish governor, he would have sacrificed a man, whose preservation (I will answer for it) would have given great satisfaction to his company. Would he have been

[1] Criminal Trials, i. p. 520. [2] Ralegh's Apology, p. 76.

delivering the sword of English Justice into the hands of the governor of Gomera, and committing a dastardly murder?

State the facts simply, and it will be seen that in both cases there is a sacrifice, but it is made to the demands of Justice. Ralegh had been guilty of a gross outrage; for which (against whomsoever committed) punishment was due. The outrage had been committed against Spain; and since the prosecution of injuries is naturally regarded as belonging more especially to the party injured, Spain (in that character) demands justice—not injustice, but justice. King James admits that the demand cannot be justly refused, though he is sensible that it will cost him much to comply. He must lose one of his ablest subjects, and incur great odium from the rest. Still the Spaniards have a *right* to demand the sacrifice, and accordingly it is made. To give them content, he does not spare him, though by preserving him he might give great satisfaction to his subjects. Invert the case and it will be seen that it was but doing as we would be done by. Suppose some *Spanish* adventurer, abusing a commission from the King of Spain, had landed in Virginia, attacked, pillaged, and burned down one of our settlements there; killed the governor, dispersed the inhabitants, carried off papers, goods, and treasure. Would not *our* ambassador have been ordered to demand the punishment of that man? Would not the Spanish government have been bound to comply? Should we not have been justified, if they refused, in going to war upon that quarrel? Still, if they had complied (especially if at the cost of unpopularity and discontent) it would no doubt have been for *our* sake, not for their own—in justice to *us*, not themselves—that they would have done it. And Ralegh in like manner, if he had had to hang an orange stealer in the market-place of Gomera, would have done it, not to please himself and his company, but in justice to the owner of the orange.

But the truth is that the real justification of the punishment in all these cases is not the satisfaction of this party or that, but the necessity of preventing breaches of faith between nations—that faith without which there cannot be either peaceful commerce or interchange of offices of humanity. Why could not Ralegh approach Gomera for the purpose of taking in water, without an exchange of cannon-shot? Because they could not trust him not to sack the town if he landed. If his own proceedings on the Orinoco had been allowed and upheld, no armed English ship could have been trusted within reach of any Spanish town, and peaceful commerce would have been at an end. Indeed the very excuse which is set up for him—namely, that "no peace beyond the line" was the creed in which he had been brought up—is the best justification of the

severity. No one could be brought up in that creed afterwards. No one could either deceive himself or offer to defend another by pretending that excuse for an act of unprovoked and unannounced hostility, and the pillage and ruin, without warning and without conditions, of a peaceful and unoffending community.

11.

I have not hitherto thought it necessary to enquire into the particulars of any of the Chancery suits in which Buckingham recommended parties to the Chancellor's favour; for I have seen no reason for suspecting that anything was done in them out of ordinary course; and to give an account of Bacon's administration as a Judge in Equity is a task which I must leave to lawyers. But the case to which the two next letters relate appeared to form an exception. Here, for the first time, Buckingham seemed to be putting some pressure upon Bacon in behalf of a suitor. Instead of merely recommending the party to such favour as his case would bear, he seemed to be asking for the reconsideration and modification of a decree pronounced, and even to hint that there might be some danger in carrying it out; the danger being that the party might make some "complaint" against him. In this case therefore I have thought it expedient to enquire what the matter at issue was, what Bacon had done, what Buckingham wanted him to do, and what he eventually did. And having been favoured with a note of the proceedings as recorded in the Chancery Order Book, I am in a condition to explain the nature of the transaction. Upon the legal question or questions involved in it I do not of course pretend to offer an opinion, nor will I undertake to say that my statement is complete or accurate enough to enable a lawyer to form one. But from the particulars which I am about to give, and which may be relied upon as authentic,[1] the moral character of the transaction may be easily inferred.

A father bequeathed certain lands to one of his sons, and also a legacy of 800*l*. The executors were required by the will to take and receive to his use, until he arrived at the age of 20, "the rents and profits of the several lands and things bequeathed." The father died when the son was only seven. The son, when he came of age, claimed interest upon the 800*l*. during the interval; and, the executors objecting, filed a bill in Chancery against them. This was in July 1617, when Bacon was Lord Keeper; who referred the case to

[1] They are all taken from a collection of notes and extracts for which I am indebted to Mr. S. R. Gardiner; notes made by himself from the Order Books.

two Masters in Chancery,—one of them being a civilian. On the 10th of November they reported that in their opinion the testator's "express intention was that some profit should be made of the said legacies of 800*l.* to the plaintiff's use, against he should come to the age of 20 years:" and that interest at 6 per cent was a reasonable claim. On the 28th of November, the Court "seeing no cause to alter" the Masters' report, ratified it: and when the executors neglected or refused to obey, there followed a succession of orders for compelling them. On the 29th of January, 1617–8, (oath being made that they had broken the decree) "attachment issued." On the 28th of April 1618—the sheriff returning the defendants 'not found'—further orders are given to seize them. In the beginning of June, being examined upon interrogatories, they are reported to have "confessed a contempt against the authority of the Court." On the 20th of June, it appearing "that they had committed a manifest contempt in disobeying the said decree," they are ordered to be committed to the Fleet. On the 7th of July the Lord Chancellor being informed that they still refuse to obey, "will try once more whether the defendants will submit: if not, they are to pay ten per cent. since they were served with the writ for the performance of the decree. On the 28th of November "Plaintiff's counsel says that the defendants had not obeyed, and it is ordered by the Lord Chancellor that if they do not yield by the first day of next term they are to pay a fine of 200*l.*"

All this had been done in reliance upon the report of the two Masters in Chancery; for the cause had not been heard in Court. Now, as it can never have been supposed that the judgment of two Masters in Chancery was infallible, I presume that there was always *some* legitimate course open by which a suitor dissatisfied with their decision might obtain a rehearing of his case. But on the other hand, as a refusal to obey the decree of the Court can never have been the legitimate course, I conclude that in this case the defendants had put themselves in the wrong by seeking redress the wrong way, and so compelled the Court in vindication of its own authority to adopt those measures. But at the same time the very report of the Master in Chancery upon which they were committed to the Fleet for contempt in disobeying the decree, shows that they had something to say for themselves; and that what they really wanted was a rehearing. And therefore though the Court was quite right, no doubt, in insisting upon obedience, it does not follow that it was not wrong in refusing to reconsider the decree. This was now the question; and the state of the case as I conceive it to have stood at the end of November will be best explained by the following report

from the Master in Chancery to whom the question of contempt had been referred in the beginning of June.

June 15, 1618.

According to an order of the sixth day of this present June, I have considered of the defendants' examinations mentioned in the said order. And I find therein a contempt confessed by them in not performing a decree of this court. For excuse whereof the said Doctor Steward sayeth that he and the other defendants have been always ready and offered to pay the legacy unto the plaintiff which was left him by his father's will, if the plaintiff would have taken the same, and setteth down divers other reasons why he performed not the said decree, some whereof are grounded upon the said will, and some upon a certificate, which he alledgeth to be unjust, whereupon the said decree was made, which reasons the said Doctor Steward humbly desireth may be heard and considered of. And the said defendant Thomas Steward for his excuse sayeth that he taketh it not to be the testator's meaning that such a sum should be paid unto the plaintiff as by the said decree is ordered unto him, the same being far greater than the legacy left him by the said will. All which I humbly leave to your Lp's further order.

EUB. THELWALL.[1]

Finding that his excuses and his request for a hearing had been passed without notice, and only followed by sharper orders on peril of heavier penalties to perform the original decree, Dr. Steward now made his appeal to Buckingham; to whom his case (as set forth by himself in that mood of mind) may easily have seemed not only to be a very hard one, but to bear very hardly upon Bacon. The result of his appeal was the following letter:—

TO THE LORD CHANCELLOR.[2]

My honourable Lord,

I having understood by Dr. Steward, that your Lordship hath made a decree against him in the Chancery, which he thinketh very hard for him to perform; although I know it is unusual to your Lordship to make any alterations when things are so far past, yet in regard I owe him a good turn which I know not how to perform but this way, I desire your Lordship, if there be any place left for mitigation, your Lordship would shew him what favour you may for my sake in his desires; which I shall be ever ready to acknowledge as a great courtesy done unto myself; and will ever rest

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Newmarket, the 2d of Decemb. 1618.

[1] One of the Masters in Chancery, but not one of those who signed the first report.

[2] Harl. MSS. vol. 7006. f. 110. Original. Docketed, "The Lo. Marquis to your Lp. touching Dr. Steward."

But this was not all. If Dr. Steward's story was true, Bacon had relied too much upon the Masters' certificate, and in refusing to hear what he had to say against it was in danger of committing an act of injustice and exposing himself to a just complaint. And it was probably under this impression that Buckingham, having to write to him on other matters the next day, took occasion to recur to the subject in the remarkable terms which will be found in the concluding paragraph of the next letter.

(The first paragraph refers to Bacon's proposal to put Sir H. Montagu on the Treasury Commission, by way of supplying Coke's place during his illness, see above, p. 378.)

TO THE LORD CHANCELLOR.[1]

My honourable Lord,

That which his M. commanded me to write touching the Lo. Chief Justice was not a refusal of that which you recommended to his consideration, who his M. well knoweth have no other end but his service; only his M. thought Sir Edward Cooke might apprehend some disgrace unto him therein, though it were never intended.

His M. liketh very well the course y^r^ Lp taketh about the instructions for the wards w^ch^ he commanded me lately to send unto you.

I have written a letter unto your Lordship, which will be delivered unto you in behalf of Dr. Steward; and besides have thought fit to use all freedom with you in that as in other things. And therefore have thought fit to tell you, that he being a man of very good reputation, and a stout man that will not yield to any thing wherein he conceiveth any hard course against him, I should be sorry he should make any complaint against you. And therefore if you can advise of any course how you may be eased of that burden and freed from his complaint, without shew of any fear of him or any thing he can say, I will be ready to join with you for the accomplishment thereof: And so desiring you to excuse the long stay of your man, I rest

Your lordship's faithful friend and servant,

G. BUCKINGHAM.

From Newmarket, the 3 of December, 1618.

This letter had the effect of inducing Bacon to look up the history of the case, and after a week's interval he replied that he would see Dr. Steward, and "what was possible should be done." What he found possible, will appear by the following order, made on the 22nd of February, 1618-9:—

[1] Harl. MSS. 7006. f. 112. original. Docketed, "3 Decemb. 1618. My Lord Marq. Buck^m^ to y^r^ Lp."

"Whereas heretofore upon the report of two of the Masters of this Court, without having heard any witness or public hearing in the cause in Court, it was ordered and decreed that the defendants should pay the plaintiff the sum of 1499li 4s; 600li whereof was for the interest or consideration of the sum of 800li bequeathed to the plaintiff by his father's will, as by the said report expressly it doth appear, which sum of 600li or any part thereof the defendants have utterly denied to be any ways due unto the plaintiff either by law or equity, as they hope they can shew if they may be permitted thereunto: This day both parties and their solicitor personally appeared before the honble the Lord Chancellor, and the defendants freely acknowledged that there was due unto the plaintiff the aforesaid sum of 800li and 100li more proceeding of the rents of certain lands bequeathed to the plaintiff by his father's will, which sum of 100li the defendants were always ready and offered and do still offer to pay, and would have been rid therefrom many years since, if they could have been discharged thereof. But as concerning the 600li allotted by the said report to the plaintiff for the interest or consideration of the said 800li, they still utterly deny that they ought to pay the same or any part thereof either by law or equity, as they hope they may make manifest.

Upon consideration whereof, and for that it was signified unto his Lordship that it was doubted whether the said Thomas the plaintiff, by reason of some infirmity in him, were in case to discharge the defendants of the said 900li if it should be paid unto him, it is therefore ordered by his Lordship with the consent of the said parties that the said defendants shall within one fortnight bring into this Court the said 900li to be kept *in deposito* to the use of the said Thomas Steward the plaintiff, and that thereupon all proceedings upon the said decree shall cease."

As for the 600li denied by the defendants, a commission to be awarded to three indifferent persons chosen by the defendants and plaintiff, to examine the point.

Mr. Gardiner informs me that he can find no trace of any report of the arbitrators, but that on the 26th of June, 1619, the lawyers were heard, and Dr. Steward was told that if he did not show cause against it the 900li would be paid to the plaintiff; from which he infers that either the report was in his favour or the demand withdrawn.

Upon the whole it appears that Bacon had been too hasty in accepting the report of his officers and refusing to hear Dr. Steward; and that though Buckingham's intervention must be admitted to have been in this instance effectual, its effect was only to discover an error and prevent an injustice. Nor can it be said that this was only a lucky accident, and that it might as easily have had an opposite effect; for if Bacon had found on enquiry that he was in the right,

there is no reason to suppose that he would have allowed any alteration.

The next letter relates, I think, to the new instructions for the Court of Wards.

TO THE MARQUIS OF BUCKINGHAM.[1]

My very good Lord,

This long book which I send for his Majesty's signature, was upon a conference and consult yesternight (at which time I was assisted by the two Chief Justices, and attended by the Surveyor, Attorney, and Receiver of the Court of Wards, Fleetwood) framed and allowed.

It is long, because we all thought fit not to piece new instructions with old instructions, but to reduce both old and new into one body of instructions. I do not see that of the articles, which are many, any could have been spared. They are plain, but they have a good property, that they will take fast hold. I may not trouble his Majesty with choosing some of them in particular, when all are good. Only I think fit to let his Majesty know of one, which is, that according to his own directions, the oath of making no private unlawful profit is now as well translated to the master and officers that may take, as to the parties and suitors that may give.

It little becometh me to possess his Majesty that this will be to his Majesty's benefit ten thousands yearly, or fifteen thousands, or twenty thousands: for these rattles are fitter for mountebanks of service than grave councillors. But my advices (as far as I am able to discern) tend or extend but to thus much: this is his Majesty's surest and easiest way for his most good.

Sir Miles Fleetwood, who both now and heretofore hath done very good service in this, meriteth to be particularly from your Lordship encouraged; which I beseech your Lordship not to forget. God ever prosper you.

Your Lordship's most faithful
bounden friend and servant,
FR. VERULAM, Canc.

This 4th of December, 1618.

[1] Stephens's first collection, p. 237. From the original. Second collection, p. 89.

Sir Thomas Ridgway, Deputy Treasurer and Treasurer of the Wars in Ireland, had been discharged of his offices in June 1617, and succeeded by Sir Arthur Savage in the first and Sir Henry Docwra in the last. Among the news of July 1617, Lord Carew informs Sir Thomas Roe that Sir Thomas will be made a Baron of Ireland "if he can pass his accounts."[1] These therefore were no doubt the accounts referred to in the beginning of the next letter.

To the Marquis of Buckingham.[2]

My very good Lord,

Yesternight we dispatched the Lord Ridgeway's account. Good service is done. Seven or eight thousand pounds are coming to the King, and a good precedent set for accounts. There came to the seal about a fortnight since a strange book passed by Mr. Attorney to one Mr. Hall; and it is to make subjects (for so is denization,) and this to go to a private use, till some thousand pounds be made of it. The number one hundred denizens. And whereas all books of that nature had an exception of merchants (which importeth the King not much in his customs only, for that is provided for in the book, but many other ways) this takes in merchants and all. I acquainted the Commissioners with it, and by one consent it is stayed. But let me counsel his Majesty to grant forth a commission of this nature, so to raise money for himself, being a flower of the crown, and Hall may be rewarded out of it; and it would be to principal persons, that it may be carried with election and discretion, whom to admit to denization and whom not.

God ever bless and prosper you.

Your Lordship's most faithful,
and obliged friend and servant,
Fr. Verulam, Canc.

Octo. Dec. 1618.

To the Lord Chancellor.[3]

My honourable Lord,

I thank your Lordship for the favour which I understand Sir Francis

[1] Calendar of State Papers, p. 426.

[2] Gibson Papers, vol. viii. f. 101. Copy. No fly leaf. Indorsed in the usual hand, "To Lo. Buckingham concerning Hall's patent of Denizens."

[3] Harl. MSS. 7006. f. 114. Docketed, "10 Dec. 1618. My Lord Marq. Bucking^m^ to y^r^ Lp. in behalf of Sir Francis Englefield."

Englefyld hath received from your Lordship upon my last letter, whereunto I desire your Lordship to add this one favour more, (which is the same that I understand your Lordship granted him at Christmas last) to give him liberty for the space of a fortnight to follow his business in his own person; whereby he may bring it to the more speedy end, putting in security (according to the ordinary course) to render himself prisoner again as soon as that time is expired: which is all that I desire for him, and in which I will acknowledge your Lordship's favour towards him: and ever rest

Your lordship's faithful friend and servant,

G. BUCKINGHAM.

Newmarket, the 10 of Decemb. 1618.

12.

Lord Ormonde, it will be remembered, having agreed to refer a question of disputed inheritance to the King, and having refused to obey the award, remained a prisoner in England.[1] It seems that his son and some of his kinsmen, being in possession in Ireland, had been making preparations for forcible resistance, and that the Commissioners had drawn up a letter to the Lord Deputy with instructions how to act: which they now sent to the King for approval; whose answer will be found in Buckingham's letter of the 14th.

The account of the Mint business promised by Bacon in his letter of the 22nd of November has not been preserved. But a letter on the subject addressed to himself by the King (which was probably the answer to it) has been copied into his own collection of letters, and will show how that business stood on the 4th of December.

A LETTER FROM HIS MAJESTY TO YOUR LORDSHIP, TOUCHING THE BUSINESS OF THE MINT.[2]

Right trusty and right beloved Counsellor, we greet you well.

Before your letters came to us, we had been informed of the pains and diligence you had shewed in our service, which we take very graciously at your hands, and thank you for it, desiring you still to continue in the course whereinto you have made so good an entrance, and have taken the right way of examining the business. And whereas you give your opinion of the Mint, we have thought fit to remember unto you the usual form which we have ever used in matters of consequence, that when you have taken the laborious part upon you in examination of the business, we first hear report of the whole proceeding, before we give our resolution thereupon. And, therefore, until we hear the report of it in particular, we

[1] See above, p. 376.
[2] Addit. MS. 5503. fol. 96.

cannot conclude with you. As for the point of the stay of commerce, we agree with you in opinion thus far: That you call three or four of the aldermen whom you shall think fittest, and assure them in our name that we see no likelihood or reason of raising our coin, for ought we have yet heard, but rather of the contrary; and that the raising of the value of the coin will be the last course we shall take, when we see no other means left; for which we yet see no cause, and therefore the stop of money is needless. As for the committee, we think it fit that they should continue to meet, until we have brought the business to such ripeness, that by the report thereof at our return we may perfectly understand every particular. Given at our Court at Newmarket, this 4th of December, 1618.

The Attorney General's motion in the Star Chamber, mentioned in the next letter, was the sequel of the discovery announced by Bacon in his letter of the 19th of October, and the beginning of the great cause of the Dutch merchants, of which we shall hear more as it proceeds.

Concerning the patent of Guinea and Bynny I have no information to give.

To the Marquis of Buckingham.[1]

My very good Lord,

I send you herewith the copy of a letter, which we, the commissioners for Ormonde's cause, have written to the Deputy of Ireland, according to his Majesty's pleasure signified by Sir Francis Blundell; which I humbly desire his Majesty would peruse, that if it do not attain his meaning, as we conceived it, we may second it with a new letter.

We have appointed Monday morning for these mint busines,[2] referred by his Majesty to certain commissioners, and we will carry it *sine strepitu*.

The patent touching Guinea and Bynny for the trade of gold, staid first by myself, and after by his Majesty's commandment, we have now settled by consent of all parties.

Mr. Attorney, by my direction, hath made (upon his information exhibited into the Star Chamber) a thundering motion

[1] Gibson Papers, vol. viii. f. 100. Docketed, "11 Dec. Your Lp. to my L. of Buck^m^ with a copy of a l're to my Lo. Deputy of Ireland, touching the Earl of Ormond."

[2] So in MS.

against the transportation of gold by the Dutch; which all the town is glad of; and I have granted divers writs of *ne exeat regnum*, according to his Majesty's warrant.

Sir Edward Coke keeps in still, and we have miss of him; but I supply it as I may by my further diligence. God ever bless you and keep you.

Your Lordship's most faithful and
bounden friend and servant,
FR. VERULAM, Canc.

11 December, 1618.

I forget not your doctor's[1] matter. I shall speak with him to-day, having received your Lordship's letter; and what is possible shall be done. I pray pardon my scribbling in haste.

The "Hollanders" referred to in Buckingham's answer to this letter, were Commissioners sent from the States to treat about certain commercial differences which had arisen in the East Indies. "The States' Commissioners" (says Lorkin writing to Sir Thomas Puckering on the 1st of December) "are here arrived, in number eight: three men of remark, two civil lawyers, and three of inferior note, merchants; who are to treat with our East India Company, to see whether they can end all former differences by bringing them to this issue, that from henceforth they join their stocks into one bank and treat[2] out that trade and traffic together."[3] "They pretend two things," he says in another letter of the 18th, "a justification of themselves for their proceedings with our merchants for the time past, and the treating about some fit expedient of trading quietly together for the time to come. His Majesty hath remitted them over to his Council, who are to hear and relate particulars."[4]

It will be seen that Bacon wished to be a commissioner to treat with them: and I think he can hardly have been satisfied with the reasons the King gave for refusing.

TO THE LORD CHANCELLOR.[5]

My honourable Lord,

I have acquainted his Majesty with your letters, who is very well

[1] Dr. Steward. See above p. 441. [2] So printed. I should think 'beat.'
[3] Court and Times of James I. vol. ii. p. 110. [4] Ib. p. 113.
[5] Harl. MSS. 7006. f. 116. Orig. Docketed "14 Dec. 1618. My Lo. of Buck. to y^r Lp. touching the stay of Hull's patent, with directions for a letter to be written to the Lo. Deputy of Ireland touching the Earl of Ormonde."

pleased with your care of his service; in making stay of the grant of denizens upon that reason you alledge, whereof his Majesty will speak further with you at his return.

The letter which you sent me about my Lord of Ormonde's son is not according to his Majesty's meaning; but he would have you frame another to my Lord Deputy to this purpose: "that his Majesty having "seen a letter of his to Sir Francis Blundell, advertising that the Earl of "Ormonde's son and some other of his kindred did victual and fortify "their houses, his Majesty hath thereupon commanded you to write unto "him, that if the ground of his information be true (which he may best "know) that then he send for the said Earl's son and the principal of his "kindred to appear before him; and if they appear and give him satis- "faction, it is well; but if they refuse to appear or give him not satis- "faction though they appear, that then he assemble what forces he can, "be they never so few, and go against them, that he may crush the rebel- "lion in the egg."

I have remembered his Majesty, as I promised your Lordship, about the naming of you for a commissioner to treat with the Hollanders: But besides that you have so many businesses, both of the star-chamber and others, in the term-time, when this must be attended as well as in the vacation, whereby this would be either too great a toil to you or a hindrance to his Majesty's service; he thinketh it could not stand with the honour of your place to be balanced with those that are sent from a state so far unequal to his Majesty, and being themselves none of the greatest of that state. Therefore his Majesty holdeth it not fit or worthy of you to put you into such an employment, in which none of your predecessors, or any of the chief counsellors, have been ever used in that kind, but only in a treaty of marriage or a conclusion of a peace, as when the constable of Castile was here, when the commissioners on both sides had their authority under the great seal of either kingdom with direct relation to their sovereigns, far differing from this commission which is now given to these men, and whereunto his Majesty is to frame the course of his. As, for that part which concerneth Scotland, the choice hath not been made of the Chancellor or Archbishop of St. Andrew's, but of men nearer the rank of those that are come hither to treat. As yet his Majesty delayeth to name any commissioners at all, because he would first be informed from the Lords both of the points and form of their commission, which his Majesty hitherto understandeth to be with authority to overrule and direct their merchants in what they shall think fit; which if it be so, then his Majesty holdeth it fit for his part to appoint the whole body of the council with like power over his merchants. As for me, I shall be ever ready upon any occasion to shew myself

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Newmarket, the 14th of Decemb. 1618.

Though the popular dissatisfaction with the execution of Ralegh was no doubt very general at the time; and though the remembrance of it afterwards, as the unpopular negotiations with Spain went on but did not prosper, helped materially to untune the relations between the government and the nation; it was not immediately followed by any threatening demonstrations of discontent: and Bacon seems to have thought that the only serious danger which then threatened the crown was the condition of the finances. Under this impression he had selected as the fittest New Year's Gift for the King on this occasion, an account of his revenue. I have not succeeded in finding any treatise answering the description: and as it was still only an intention, it may perhaps have remained in that state and not grown into anything better. That he should not have been able to have it ready at the exact time when it might be used to serve and dignify the office of a new year's compliment, is easy to understand. But it was an intention at any rate sufficiently mature to be formally announced to the King himself, and the letter in which he announced it, still extant in his own hand, is here printed from the original in the Bodleian Library.

TO THE KING.[1]

It may please your most excellent Majesty,

I do many times with gladness and for a remedy of my other labours, revolve in my mind the great happiness which God (of his singular goodness) hath accumulated upon your Majesty every way; and how complete the same would be, if the state of your means were once rectified, and well ordered. Your people militar and obedient; fit for war, used to peace. Your Church illightened with good preachers, as an heaven of stars. Your Judges learned, and learning from you; just, and just by your example. Your Nobility in a right distance between crown and people; no oppressors of the people, no overshadowers of the crown. Your Council full of tribute of care, faith, and freedom. Your gentlemen and justices of peace willing to apply your royal mandates to the nature of their several countries, but ready to obey. Your servants in awe of your wisdom, in hope of your goodness. The fields growing every day by the improvement and recovery of grounds, from the desert to the garden. The city grown from wood to brick. Your sea-walls or *pomœrium* of

[1] Tanner MSS. 74. fo. 176. Original. Own hand.

your island, surveyed and in edifying. Your merchants embracing the whole compass of the world, east, west, north, and south. The times give you peace, and yet offer you opportunities of action abroad. And lastly, your excellent royal issue entaileth these blessings and favours of God to descend to all posterity.

It resteth therefore that God having done so great things for your Majesty and you for others, you would do so much for yourself, as to go through (according to your beginnings) with the rectifying and settling of your estate of means, which only is wanting. *Hoc rebus defuit unum.*

I therefore, whom only love and duty to your Majesty and royal line hath made a financier, do intend to present unto your Majesty a perfect book of your estate, like a prospective glass, to draw your estate nearer to your sight; beseeching your Majesty to conceive, that if I have not attained to do that that I would do in this which is not proper for me, nor in my element, I shall make your Majesty amends in some other things in which I am better bred. God ever preserve and prosper your M.

Your Ms. servant
most humble obliged and devoted
Fr. Verulam.

2 Januar. 1618.

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